

Why do member states waste their time?

Legislative oversight in the EU decision making process

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Paper presented at the Political Science and Political Economy Conference on "Designing Democratic Institutions", London School of Economics and Political Science 13.-15.5.2008

Abstract

Legislative decision making creates a classical principal agent-problem in the EU. To achieve the compromise solution for the common goal of European integration, member states with diverging interests nominate and delegate important powers to Commissioners, thus raising the possibility that Commissioners attempt to pursue policies favored by their own at the expense of the member states. This study argues that member states have established a Council with an institutional structure for legislative oversight that enhances their influence by scrutinizing Commissioners' proposals and which should increase the length of the decision making process. When member states are particularly salient, this will prevent a Commissioner from drafting hostile proposals, stick to the compromise solution and save time, while the perception of less salient member states will motivate Commissioners to draft hostile proposals and increase the duration of the process. Using a novel dataset the econometric analysis examines whether the time spent for the adoption of legislative proposals is a function of the risk of a Commissioner's biased drafting and member states' saliency. The findings on roughly 8,000 Commission proposals and a subset of 1,100 intensely discussed cases demonstrate the relevance of the hypothesized effects.

The inherent principle agent-problem of European integration

Research on European integration has made enormous progress in understanding how cooperation is achieved among an increasing number of member states which differ in their historical, economic and socio-political backgrounds (Puchala 1999, Slapin 2005). The member states are the veto players for European integration because their consensus is required for treaty reforms at intergovernmental conferences which periodically delegated competences to the EU level by interstate bargains (Moravcsik 1998, 2008, Tsebelis 2008). Until recently, however, this intergovernmental approach on European integration has focused on treaty reforms, more or less ignoring the legislative decision-making processes which translate these treaties into binding and enforceable legislative acts (see for a critique, Tsebelis and Garrett 2001). Yet, a deeper focus on the legislative process is warranted for a number of reasons. The ongoing discussion about the EU's democratic deficit suggests that a stronger connection between the principals' preferences - whether these are the citizens or their elected parliamentary representatives - and EU legislative decision making is desirable when outcomes are of (re)distributive nature (Follesdal and Hix 2006, Moravcsik 2002, 2004, Majone 1998). At least in part, for many scholars the empowerment of the European Parliament (EP) in legislative decision making will strengthen this connection (Hix 2007, Rittberger and Schimmelfennig 2007, Luetgert 2008). However, legislative decision making in the EU raises puzzles that go beyond the empowerment of the EP.

Most importantly, EU legislative decision making is exposure to a principal agent-problem. To achieve the common goal of European integration, the member states delegate legislative powers to Commissioners who have the sole right to initiate legislative proposals (Pollack 1997, 2001). Over the past, a growing number of member states with diverging positions on at least some issues nominate and empower individual Commissioners, most of them having a party government career in their home country before they became in office

(Hix 2004, Wonka 2007). Such delegation may offer individual Commissioners to initiate proposals favored by their own (party government) at the expense of the (other) member states (Eppink 2007). The risk of biased proposals inherent in delegation suggests that member states have good reason to find an answer to the risk of hostile proposals, in particular when a Commissioner has an extreme position (Martin and Vanberg 2004).

Several authors have already raised the attention to a principal agent-problem between the Commission and the member states in the implementation stage of legislation (i.e., Pollack 1997, 2001, Steunenberg et al. 1996, Franchino 2000, 2002, 2004, 2006), but there is no evidence that explores whether, and if so, under which conditions member states react on this risk inherent to delegation in the EU's legislative decision-making process. Most notably, legislative research usually conceives the Council as a voting platform of the member states and pays little attention to the Council's institutional organization in the decision making process. On closer inspection of the Council's organization, one finds that member states have established a complex committee system with three different levels as a monitoring device, which affords gathering information and expertise on legislative proposals. Comparable to legislatures in parliamentary systems of Western democracies, the question is whether and under which conditions member states with divergent interests use the Council's legislative oversight to accomplish the goal of European integration. This study argues that member states are likely to scrutinize Commissioners' proposals and perhaps to prevent them from pursuing their own interest when they are particularly salient on a Commissioner's proposal.

The following analysis examines the inter-institutional relationship between Commissioners and member states by focusing on the factors which impact the legislative process in the period from 1986 to 2002. By adopting binding legislative proposals in the interests of the member states (and their citizens) this process is central for achieving the goal of European integration. In case of hostile proposals, this process can also afford member states to manage their delegation problem by monitoring legislative proposals and, if

necessary, amending biased legislation. Theoretically, the analysis shows that the likelihood for a biased proposal – which is a function of a Commissioner’s distance from the compromise solution of the member states – depends on the Commissioner’s perceptions of the likelihood for scrutinizing activities of the member states: when member states with diverging positions are highly salient, they will pay more attention to a legislative proposal, which decreases the probability for a Commissioner’s drift; otherwise she risks of being forced to resubmit or to accept an amended proposal. However, when a Commissioner perceives member states as being less salient, the likelihood for submitting the compromise solution decreases and member states will modestly start discussions for solving their positional differences. These activities of Commissioners, member states – and sometimes the EP – should influence the duration of the legislative process because at each stage actors will gather information about the proposal and the positions of the others and perhaps adapt the own strategy either to avoid hostile legislation or being overruled.

If correct, this has important implications for our understanding of the ways how European integration is achieved and the role of the Commission, the Council and the EP in the legislative process. A common view is that the agenda setter can dominate EU legislative outcomes and that the Council is a voting platform in which member states either adopt or reject a proposal under closed rule (i.e., Crombez 1996, 1997, Tsebelis and Garrett 2000, Tsebelis 1994, 2002, Steunenberg and Selck 2006). This research challenges this common view by suggesting that the legislative institution of the Council plays a central role that can effectively support (a growing number of) member states with diverging interests to achieve the goal of European integration, in particular when they are salient and pay attention to the proposal. Moreover, the EP also serves as an additional restriction for legislative oversight which reduces the risk of biased drafting. This is in line with recent insights about the role of parliamentary legislatures and second chambers which afford coalition governments to overcome their principal agent-problem raised by the delegation of important policy-making

powers to individual ministers (Döring 1995, Müller and Strom 2000, Martin and Vanberg 2005, Heller 2007).

The remainder provides good reason for the existence of a principal agent-problem and a more important role of the Council in the legislative decision-making process. The next section describes the role of Commissioners and Council, before the argument will be developed under which circumstances monitoring of Commissioners' proposals by the member states is expected. For evaluating several hypotheses derived from this principal agent-view, and perhaps more generally for testing theories of legislative decisions making in a quantitative research design, it is perhaps one of the most challenging endeavors to find reliable estimators for actors' positions which vary over time and across sectors. To identify these positions and evaluate the hypothesized effects over a period of about two decades, a novel combination of two datasets will be presented – one contains a total sample of roughly 8,000 cross-validated proposals and a subsample of about 1,100 controversial bills, and the second dataset documents the EU-specific two-dimensional preferences of member states and Commissioners. The econometric findings provide strong support for the hypothesized effects and suggest that member states respond to this inherent risk of biased proposals in the process of EU legislative decision making. The optimistic conclusion of the insignificant effect of Commissioners' drift in the subsample of “discussed” legislation is that member states with divergent interests can achieve the goal of European integration.

The role of Commissioners and the organization of the Council

Perhaps one of the most distinctive features of European integration is the extent to which competences are delegated to the EU level. Over the past decades, the EU gained competences in an increasing number of policy sectors and established an institutional framework with an own legal system. This system has become an integral part of the legal system of the member states, in particular by a decision of the European Court of Justice on

the supremacy of supranational against national law (Weiler 1994, Dehousse 1998). This “supranationalization” has been accompanied by generating various types, instruments and procedures for EU legislative decision making.¹ According to veto player studies, the Commission, the Council and the EP are the central institutional actors of EU legislative decision making, and the EP has gained co-legislative powers since the passage of the Single European Act in 1987.² This institutional approach has also been applied to the quantitative study of the EU’s legislative process and revealed that a higher voting rule in the Council, the participation of the EP and the supranational type of legislation have prolonging effects on the duration of legislative decision making (Krislov et al. 1986, Slootand Verschuren 1990, Golub 1999, 2002, 2007, Golub and Steunenberg 2007, Zorn 2007, +++).³ Although this literature made enormous empirical and methodological progress in recent years – using sophisticated event history statistics and databases with thousands of legislative cases over a period of more than 20 years –, there is a remarkable theoretical lack of understanding about the reasons for the time spent on EU legislative decision making. Still, a major question is on why do member states waste their time in this decision-making process, and in particular, why

¹ Under all procedures and for all instruments, the Commission has the sole right to propose legislation, but the Council or the EP may request that the Commission submits a proposal. Most legislation is adopted by the Council acting alone under either qualified majority or unanimity. Since 1987, the EP has co-legislative powers under the cooperation and co-decision procedures, the latter having been established in 1993 and modified in 1999. None of the legislative procedures imposes limits on the duration of the decision making process, which provides the Council with various delay options.

² Many authors of EU legislative decision making promote a veto player approach, according to which veto players are those actors whose support is necessary for changing the status quo (i.e., Tsebelis (1994, 1996, 2002), Steunenberg (1994, 2000), Crombez (1996, 1997, 2000), Moser (1996, 2000), Schneider (1997), Tsebelis and Garrett (1997a, 1997b, 2000, 2001), Scully (1997a, 1997b), Jabko (1999), Nugent (2001), Scharpf (2006).

³ Modeling the Commission as a unitary actor is the most common choice in both the formal and the empirical literature (Cockfield 1994, Ross 1995, see for an overview of this literature, Schneider 1997).

should more restrictive voting rules or additional veto players prolong the duration of decision making? The most plausible ad hoc-explanation is that EU decision making is based on bargaining, and that when member states have diverging positions, those bargains usually require time for finding compromises, paying side-payments etc.

Another unresolved puzzle concerns the role of Commissioners, who have the sole right to initiate legislative proposals. Compared to governmental bills in Western democracies, Commission proposals usually achieve a higher adoption rate of more than 90 per cent over the years. Formally, the introduction of a Commission proposal requires adoption by the cabinet, but this does not mean that the proposal is collectively drafted by all Commissioners. By contrast, compared to the autonomy in cabinets of Western democracies (see, Laver and Shepsle 1996, Gallagher, Laver and Mair 2001), the degree in specialization and membership size are even higher in the Commission promoting that the content and wording of a proposal is usually drafted by the responsible Commissioner under whose jurisdiction the proposal falls (though the Commissioner is supported by civil servants of her General Direction providing her with an informational advantage). This suggests that Commissioners have discretionary power and do not even know a control by junior ministers who shadow the work of hostile cabinet ministers in many Western democracies (Thies 2001).

Unsurprisingly, current legislative research thus conceives the Commission as a unitary actor with single peaked preference, while there is much debate about the power of the Commission in the legislative process which is either assumed being a very powerful actor under closed rule (Steunenberg 1994, Crombez 1996, 2000, Selck 2004) or simply excluded from the analysis (Tsebelis 1994, Tsebelis and Garrett 2000). Upon closer inspection of the Commission and the legislative process, we are reminded that Commissioners are nominated by member states, have portfolio power and can decide whether to propose legislation to the member states, which then discuss, amend and take a decision on the proposal in the Council,

sometimes followed by a decision of the EP.⁴ But when each Commissioner can select the most preferred policy among all possible proposals, the appointment of Commissioners should be of notable importance, particularly when the Commissioners' powers might be enhanced by a Council with diverging positions of the member states as this typically leads to an expansion of the Commissioner's proposal choice set.⁵ If correct, member states face a principal agent-problem when they nominate and appoint Commissioners to achieve the common goal of European integration, but hardly have complete information about future policy activities of Commissioners and should be prepared to control them in order to prevent a possible bias of their proposals in the following legislative process.

From a legalist point of view, article 213 of the treaty formulates that "The Members of the Commission shall, in the general interest of the Community, be completely independent in the performance of their duties. They shall neither seek nor take instructions from any government or any other body". However, while Article 213 legalistically commits Commissioners to the common goal of European integration, delegation inherently creates the risk that agents (in the context of EU legislation, Commissioners and the civil servants of their DGs) do not truly work in the general interest of the Community (in this context, the bargaining solution of the member states as a proxy for compromise, see Achen 2006). While such principal agent-problems can occur between a member state and "its" nominated Commissioner, they are especially difficult in the more complex and common situation where

⁴ Empirical studies of EU legislative decision making show that member states rarely share the same interest with respect to the legislative means despite their consistent support for the common goal of European integration (Buono de Mesquita and Stokman 1994, Mattila and Lane 2001, Selck 2004, Thomson et al. 2006).

⁵ Few scholars have yet argued that individual Commissioners play an important role in policy making (i.e., Coleman and Tangemann 1999, Sbragia 1996, Allen 1996a, 1996b), and only Crombez (1997) has yet investigated the portfolio idea and proposed an appointment model of Commissioners, according to which the preferences of the Commission always belong to the core of member states.

several member states with diverging interests delegate powers to the EU level and distribute portfolios to individual Commissioners from different member states.

Theoretically, the delegation of powers requires consensus among the member states. In a simple spatial model, consensus on delegation means that member states expect to benefit against the status quo and compromise on a solution on which the member states have divergent positions. According to spatial analysis, the likelihood for this consensus shrinks with the number of member states with divergent positions, while their compromise set increases with the number of policy dimensions. This suggests that the supranationalization of competences can be explained by a growing number of member states that continuously increased the number of policy dimensions in order to find consensus. At the same time, when the potential for compromise increases (i.e., when the member states are located on the same side of the status quo but still diverge in their interests), the incentive for a Commissioner with extreme position increases to deviate from the compromise solution moving the proposal as close as possible to her own position within the compromise set.

Empirically, there are several reasons to believe that Commissioners are only legalistically committed to article 213 but still affiliated to the governmental institutions of their home countries and keep in touch with their party government (Wonka 2007). In the period under study, the appointment procedure of the investigated 75 Commissioners – and the hot debates on the proposed change during the recent treaty reforms – provided that large member states, such as France, Germany, Italy, the United Kingdom and Spain nominated two Commissioners, whereas smaller member states proposed only one Commissioner each.⁶

⁶ This country-related allocation rule of portfolios has been a key point in the EU's current treaty reform debate after ten new countries from Eastern and Southern Europe acceded in May 2004, followed by Bulgaria and Romania in 2007 – a number that could threaten the effective functioning of the Commission under the country-based allocation rule. However, smaller member states stood in strong opposition to modifying the rules for nominating Commissioners, feeling disadvantaged by a system of rotation (+++).

On closer inspection of the Commissioners' individual backgrounds, it turns out that between 1967 and 2004, 80 percent of the Commissioners held at least one elected office in their country of origin before becoming a Commissioner, and almost 50 percent held a cabinet ministerial position in their home country (see Hix 2004, table 2.3). This affiliation is not only related to the Commissioners who are nominated by their home governments. In her study on the broader set of Commission representatives and top civil servants, Hooghe (2001) finds that national partisanship is important for both their careers and their choice of portfolios.⁷

On closer inspection of the appointment characteristics of the 75 Commissioners in the period under study, such as their party affiliation, positional location in their political party and their European attitudes, Commissioners were usually strongly affiliated with their political party in their country of origin and expressed their median voice.⁸ However,

⁷ A number of relevant factors indicate problems in controlling Commissioners in- or externally, see Schmidt (2000), Dimitrova and Steunenberg (2000), Thomson et al. (2006), Hix (2004), Cini (1996), Page (1997) and Hooghe (1999a, 1999b, 2001). Briefly summarized, appointment and career support the idea of a relatively strong preference affiliation between Commissioners and their country of origin, and the internal organization of the Commission establishes discretionary portfolio power for the Commissioners allowing them to pursue the goals of their home country.

⁸ In an expert survey, colleagues from each member country answered the following three questions for all Commissioners from their home country: 1) Most (if not all) Commissioners have been members of a political party in their country of origin. Please indicate for each Commissioner whether (s)he has been strongly affiliated with the political party of origin when (s)he was appointed; 2) Please indicate for each Commissioner whether (s)he pursued interests located in the middle of the political party of origin when (s)he was appointed; 3) Please indicate for each Commissioner whether (s)he was an actor with an integrationist or national attitude towards European politics. Except for the Austrian Franz Fischler, Commissioners are described as having above average affiliation with their political party when they were appointed, with little variation in Ireland and Greece (only the Belgium Commissioners Etienne Davignon and Karel van Miert were not indicated as pursuing the interests located in the middle of the political party of origin, while most Commissioners held a centrist party position. With respect to their European attitudes, the results demonstrate that Danish, Irish and British Commissioners

although empirical research suggests a strong party-background of Commissioners' in their home countries, it is difficult to identify a Commissioners' position in the legislative process. Several studies find that Commissioners promote a more European attitude, but even if a party affiliation matters, it is still an open question how this party-oriented background of a Commissioner translates into a party- or a party government-oriented attitude, or, whether a Commissioner perhaps represents and pursues the interest of their political party at the time when she was nominated. Another conceptual question is whether it is better to control for sector-specific positions instead of assuming an overall one-dimensional conflict pattern which considers the jurisdiction of each Commissioner.⁹

When a Commissioner might be tempted to pursue own interests at the expense of others, the basic question arises whether and how member states respond to this problem, and what effects these reactions have on the process of legislative decision making. If member states decide to ignore this problem – as suggested by research on EU legislative decision making that assumes a powerful agenda setter under closed rule – and allow each Commissioner to make a proposal in favor of her own ideal point respectively the position of her home country, the drawback is that European integration – as the aggregated policy outcomes – would be pareto-inferior. Under many circumstances, the member states would therefore favor a package deal and a trading of compromises across proposals and sectors instead of allowing each Commissioner to control her jurisdiction.

One possibility is internal control by other Commissioners in the cabinet. However, when internal control of a Commissioner by other Commissioners is difficult to achieve due to informational asymmetry among Commissioners, an institutional answer of the member

promoted the most pronounced national attitudes, while Commissioners from other countries were viewed as actors favoring a more integrationist attitude with some variation in the Netherlands).

⁹ For example, Crombez (1997) supposes a party-oriented background of Commissioners according to the uni-dimensional domestic left-right position of their affiliated domestic political party.

states could involve using a standing committee system with broad investigative power, including the right to hear the Commissioner's viewpoint on the draft proposal, having access to all Commission documents and the ability to amend the proposal. All of these external control opportunities indeed exist for the Council which allows member states to acquire information and expertise. Here, research on the Council's legislative work reveals that Commission proposals are scrutinized at three Council levels from different viewpoints – the ministerial, COREPER and working group level (Hayes-Renshaw and Wallace 2006). Member states extensively monitor Commission proposals in area-related working and technical groups of the Council, which discuss specific issues of the proposal text without time restriction (Kirchner 1992, Westlake 1995, Thomson et al. 2006).¹⁰ Accordingly, when a Commissioner is tempted to pursue own interests, member states can anticipate this and at least signal to a Commissioner that drift is likely of being uncovered by a committee system as a plausible institutional reaction to this principal agent-problem.

The EU's legislative process: Why should time matter?

While the argument for the use of Council legislative oversight as a monitoring device for Commissioners' drift is plausible, the empirical examination of the hypothesized effects requires detailed information on the legislative process. Apart from the need of indicators about the positions of Commissioners and member states, such a study might use the number of hearings scheduled for each proposal, the number and content of amendments introduced

¹⁰ At each level, member states can hold hearings with the responsible Commissioner, and they have the right to postpone (without time restriction) and amend Commission proposals under unanimity in order to cope with the risk resulting from the Commissioners' autonomy and power. On the other hand, meeting the unanimity criterion for amendments should also be related to the preference heterogeneity of member states, suggesting that more heterogeneous preferences may provide an incentive for Commissioners to promote the interests of their political party respectively party government at home.

by the member states and of the EP, the level of information etc. Although much progress is recently made in the data collection of the EU legislative process, such data are currently not available for the actors' activities.¹¹ In this study, the corollary hypothesis for these activities is that they require time, and the amount of time spent for these activities should be related to the likelihood for a Commissioner's bias and her perception of the member states' probability for scrutinizing the proposal.

A central feature of European integration is that it requires the consent of all member states with positions that may diverge over a common policy (see for more details, Achen 2006). In other words, the transfer of competences to the EU level necessitates compromise, but member states may still have diverging positions about the implementation of the compromise in the legislative decision-making process. In general, the duration of this legislative process should therefore increase with the divergence in the positions of the member states.¹² The more their positions differ, the more time they need to find a solution for the implementation of their goals. Member states will gather information for coalition building which is time-consuming and should, thereby, increase the length of the decision-making process (H1):¹³ *The more distant the positions of the member states are, the more time they need for discussion and building coalitions, and, more importantly, for building the*

¹¹ Most studies examined the bicameral relationship between the Council and the EP, devoting attention to the rate of successful parliamentary amendments (Westlake 1995, Corbett et al. 1995, Judge and Earnshaw 1997, Kreppel 1999, Kreppel and Tsebelis 1999).

¹² When qualified majority voting in the Council offers the exclusion of some member states with extreme positions, this should generally reduce the length of the process. However, unanimity of the member states is always required for amending a proposal.

¹³ Similar effects were found by Martin and Vanberg (2004: 17) for domestic legislative processes showing that i) bills that are scrutinized more carefully will tend to require more time in the legislative process than bills that are not subject to close scrutiny, and ii) the principal-agent problem increases with increasing ideological differences among the party actors.

unanimous coalition to adopt or to amend a proposal which should lengthen the duration of the legislative process.

In the more elaborate rendering of the legislative decision-making game between a Commissioner and the member states of figure 1, the first move is not made by the Commissioner or the member states, but rather by nature which determines the saliency of the member states on particular issues of the proposal. Given that member states disagree on at least a few issues of each proposal and that a Commissioner has some incentive to deviate from the compromise solution of the member states, nature means that historical, judicial, socio-economic or other conditions or circumstances determine whether the member states are salient or not. Saliency may however impact the legislative process because more salient member states will pay more attention to the legislative proposal and are more likely to scrutinize the proposal. This can change the probability of a Commissioner to draft a hostile proposal because member states – and sometimes the EP – have the opportunity to “correct” biased legislation and can either reject (respectively signal to the Commission to resubmit the proposal) or amend the proposal. Amendments require further activities by either participation of the EP and/or unanimity by the member states which will prolong the process.

In figure 1, the probability for non-saliency of the member states is p , while high saliency is denoted by $1-p$. These probabilities are common knowledge so that a Commissioner and the member states know about the saliency of the member states. The Commissioner’s decision whether to draft a biased proposal depends crucially on the perception whether the member states will scrutinize the proposal which ranges between 0 and 1.¹⁴ If the Commissioner is certain that the member states will scrutinize the proposal, she will propose the compromise solution and prevent from pursuing own interests. The argument is that highly salient member states will invest more resources and uncover a Commissioner’s

¹⁴ For simplicity, figure 1 lists the payoffs of the actors involved which principally distinguish between the saliency of the member states in the Council.

drift which will reduce the risk of hostile legislation. They will discuss their positional differences, hold hearings and try to find solution which needs time. In this event, only the distances in the positions of the member states should matter, while a Commissioner's drift should hardly affect the length of the process. Accordingly (H2), *when member states with different positions are highly salient and therefore likely to scrutinize a proposal, the risk of a Commissioner's bias should be lower and positional divergence of the member states should dominate the effect on the duration of the legislative process.*

If a Commissioner is certain about a lower saliency of the member states, it turns out that biased drafting (compared to presenting the compromise in the event of highly salient member states) is the dominant strategy with several equilibria, while the likelihood for drafting the compromise solution is very low. In general, one would expect that the more extreme the position of a Commissioner deviates from this compromise, and the more diverse the positions of the member states are, the higher is the Commissioner's incentive to bias the proposal. In relation to the positional differences of the less salient member states, the duration of the working group sessions should increase, and the number of hearings with the Commissioner should also increase at each level of the Council committee system. The more diverging the positions are and the more hostile the proposal is, the more likely it is that the working groups cannot resolve all issues, and the more time is spent at the various levels of the Council committee system to find a solution. Taken together (H3), *the duration of the legislative process should significantly increase with the likelihood for a biased proposal by a Commissioner with distant interest from the compromise solution of the member states.*

Because little is to gain from a Commissioner representing the member states, delegation tends to become more severe as the positional distance of the member states increases in the event of less salient member states, and a Commissioner stands to win more from this configuration. This suggests that if member states make use of committee scrutiny for Commission proposals, if this scrutiny requires time, and if amendments must be adopted

unanimously or by inclusion of the EP, one should find support for a positive relationship between duration of the process and heterogeneity of their positions, but a higher risk of a country-bias in the event of less salient member states. At the same time, even less salient member states can become aware of this problem by legislative oversight and can signal to a Commissioner to resubmit a proposal before amending it. Under these circumstances (H4), *a resubmission of a proposal should reduce the duration of the process.*

EU legislation knows several procedures which can be broadly classified into those with and without parliamentary participation. Before the EP became a co-legislative actor, several studies found that the EP and the Commission shared a pro-integrative position which almost exclusively favored a change of the status quo. From this “supranational” scenario, some scholars concluded that the additional parliamentary participation has to be explained by the attempt of member states to increase the EU’s legitimacy (i.e. Follesdal and Hix 2006, Rittberger 2006), but the more elaborate rendering of the legislative decision-making game suggests that the EP might also help to avoid biased drafting. In accordance with the normative purpose of parliamentary participation, the EP will increase the likelihood for a compromise solution because it sets an additional hurdle for hostile proposals. According to this view (H5), *parliamentary participation would lengthen this process as long as the EP attempts to avoid a particular bias of EU legislation.*

While using a standing committee and/or including the EP as external controls of Commissioners is a plausible institutional reaction, there are other characteristics of EU legislation, such as the provision of different instruments and the growing number of renewed legislation, which might affect member states’ activities. The type of legislation could thus be another explanatory variable for this perspective, i.e. whether the proposal concerns new or existing legislation. In the event of existing legislation, member states already know many details and positions from deliberations of the previous piece which is to be renewed. Thus (H6), *existing legislation should shorten the decision-making process.* Finally, the EU sets out

three different kinds of binding legislation: regulations, decisions and directives. While decisions and regulations are binding and directly applicable, meaning that these instruments do not have to be transposed into national law, directives offer the member states more discretionary power in the implementation stage. More discretionary powers in the implementation stage suggest that (H7) *directives would shorten the duration of the legislative process.*

In sum, the positions and the level of saliency should influence the legislative process. Distance between the positions of the member states should be a dominant effect because member states with more diverging positions need more time for coalition building and for finding a solution, paying side-payments etc. Bias should also affect the legislative process as long as member states do not pay maximum attention to the proposal. If this is not the case, resubmission, parliamentary participation, amending legislation and discretionary power in the implementation stage will shorten the legislative process. Testing these claims requires estimators for the member states' and the Commissioners' positions which can vary across sectors and over time. Moreover, one must find an indicator for the scrutinizing likelihood of the member states, which shall refer to their saliency.

Process characteristics, positions and the duration of decision making

Testing hypotheses H1 to H7 poses a number of methodological challenges, which were recently discussed in a debate among duration analysts of EU legislative decision making (for more details, see EUP 2007, 2008). In this discussion, a major puzzle has been that several institutional covariates changed their effects over time and closer inspection of the sample reveals that 129 of 8475 proposals, which were initiated by a Commissioner in the period from 1984 to 2002, experienced parliamentary institutional change – 78 started with no parliamentary participation and were finally decided under cooperation or codecision procedure, while 101 cases were affected by a change of the Council's voting rule – about

half from unanimity to qualified majority and vice versa.¹⁵ Another issue of this debate concerned the selection of the sample and the cross-validation of the data, which should cover a lengthy period including several enlargement rounds and treaty reforms for the study of the hypothesized effects. Furthermore, another question is whether and to what extent the bulk of “regular” legislation determines the statistical findings and which statistical model should be employed.

To solve the proportionality puzzle and sample selection problem, this study proposes using two-dimensional area-specific estimators for Commissioners’ and member states’ positions. In addition to their overall relevance for testing the principal agent-problem, such area-related estimators may explain why the effects of the covariates change over time, i.e. due to a change in governmental composition respectively change of governmental positions resulting from national elections in the member states. Closer inspection of the sample indicates that 2792 cases experienced a change in member states’ positions, which can affect their duration. A second innovation of this study is the distinction between intensely discussed legislation and the total bulk of EU legislation in order to identify the statistical effect of regular legislation and to examine the hypothesized saliency effect.¹⁶ These samples cover proposals in the period from 1984 to 2002, thereby including several treaty changes (1987, 1993, 1999) and enlargement rounds (1986, 1995). The data are also cross-validated with the inter-institutional information from PreLex, a second official source of information on the detailed legislative process (+++). PreLex additionally documents Council A- and B-item

¹⁵ 59 cases experienced a change in parliamentary involvement and Council voting rule.

¹⁶ When a proposal is entered as an A-item on the Council agenda, member states and the Commission have agreed on the non-controversial nature of the proposed legislation: “In practice, A-items are approved *en bloc* without prejudice to the provisions on the public nature of proceedings” (Commission 2006, 127). The B-items, on the other hand, indicate decisions subject to continued discussion, even if general agreement among the member states is reached in advance.

notification as well as Commission DG allocation information, which is required for the identification of intensely discussed legislation and the responsible Commissioner.¹⁷

Process characteristics: Controversial and non-controversial data

To cross-validate information on legislative characteristics and to identify the necessary indicators, data has been gathered by transforming the CELEX full-text database and the PreLex process oriented database into machine-readable datasets. This transformation requires several steps and conceptual decisions. For example, some proposals provide multiple indications for voting rules and policy areas according to the cited legal basis, and others have been pending for a long time or include treaty modifications that do not terminate in deliberations within the Council. To avoid possible bias through conceptual decisions, the combined dataset provides a cross-validated basis for EU legislative research that allows for the identification of major institutional characteristics of the legislative process in two independent sources.

Another advantage of combining CELEX and PreLex is the inclusion of further proposal characteristics, which are only listed in one of the two data sources, such as the indication of a B-point for legislation which has still to be discussed in the Council. Because several authors (e.g. Majone 1996, 2001, Golub 2007) suppose that many Commission proposals hardly generate discussion among member states, this study controls for this claim by distinguishing between a subsample of these proposals and the total sample, which also

¹⁷ Some proposals were adopted during the period under study but initiated prior to 1984, while other pending proposals still exist for the period under study. To cope with the problem of right-censoring in this study, the median duration of 190 days between Commission initiatives and Council adoption from February 1, 2003 has been subtracted and all pending proposals after this date were excluded. This results in every initiative having a similar chance of adoption.

includes more regulatory legislation under the written procedure and A-items.¹⁸ Figure 2 illustrates all Commission and Council activities for total and legislation to be discussed in this period. Until the end of the 1980s, the number of Commission initiatives and adoptions by the Council continuously increased. Since then, except for the time around the Maastricht treaty (1993), these activities have decreased continuously. This trend is less pronounced for legislation to be discussed, which has fallen from more than one hundred legislative acts in the 1990s to about 50 per year by 2000.

One explanation for this trend is that EU legislative decision making has become more difficult meaning that the median proposal-adoption time lag has increased. Figure 3 illustrates how the decision making process has slowed in recent years. While the median proposal-adoption time lag was about 100 days until the end of the 1980s, it markedly increased in the early 1990s to about 150 days. Before the Nice treaty entered into force, the median duration of adopted proposals increased to about 130 days in 2000. A similar trend is shown for the subsample of “discussed” legislation, which reveals a shorter process duration for discussed proposals prior to the enlargement in 1995. Member states obviously settled these discussions before the accession of Austria, Finland and Sweden.

Table 1 distinguishes between types of legislation and provides some other descriptive statistics on the explanatory variables of the EU decision-making process. Overall, 7,514 of the Commissioners’ proposals were adopted, 1,172 of them are document as B-items, meaning that they raised further discussions in the Council. Thus, more than 93% of the total sample and more than 97% of B-item proposals were adopted – a rate which is explained by two reasons: Commission proposals are rarely rejected and are normally pending, because the legislative process knows no end of terms or dissolution. About 15 per cent of all decided proposals had a time lag of more than one year. This means that they can be adopted after a

¹⁸ Some proposals have indicated more than one B-item which could be used for weighting the level of conflict. In this study, however, the smaller sample includes all cases having at least one indicated B-item.

long pending period that may even include an accession or a treaty reform with a change in procedural provisions. Moreover, compared to other legislative systems, the EU has no competitive initiators. The Commission formally initiates all legislation, whereas opposition (minority) proposals usually cause lower adoption rates in the legislatures of Western democracies. Reference to existing legislation supports this effect and also excludes the EP, particularly in the domain of internal market politics.

Another explanation for the relatively high share of successful proposals and increase in duration rests in the application of Council qualified majority voting (about 65% overall and about 71% for intensely discussed legislation) and the small but increasing share of EP participation (about 11% and 12%). According to spatial theory, Council qualified majority voting (Rule) should facilitate legislative decision making, while parliamentary participation (Parliam) results in an additional veto player and thus should complicate the process.¹⁹ This study also accounts for Commission resubmissions (Resubmit) that rarely occur in the overall sample (15%) during Council deliberations but have a higher share of about 27% of B-item legislation. This Commissioners' behavior in reaction to the Council's activities is also an indicator for a limited foresight of the following process because Commissioners can hardly anticipate all possible constraints and have sometimes to resubmit the initiative.

Table 1 also shows that the EU uses different instruments for legislation (Instrument). The binding and directly applicable instruments are decisions and regulations which dominate with about 87% of EU legislation, and these instruments are often used in the agricultural (accounting for about 20%) and trade sector (about 30%). Because directives offer member states more discretionary power in the implementation stage, regulations and decisions should require a higher level of control vis-à-vis Commission proposals. Another characteristic to control for is the type of legislation that distinguishes between Commission initiatives decided

¹⁹ As long as the voting behavior of MEPs follows in accordance with their political party affiliation (Kreppel 2000, Hix 2002, 2004).

on a treaty basis and proposals that are decided on the basis of a previous legislative act (Amended). This kind of renewed legislative power often excludes parliamentary participation and has been used in almost 34% of all cases and 31% of cases in to be discussed. In sum, EU legislation is characterized by a very high adoption rate of modified regulations in the agricultural and trade sectors that allow for Council qualified majority voting without EP participation.

Policy positions of member states and Commissioners

Compared to the data on the legislative process, little quantitative information exists for an accurate identification of the positions of the member states and Commissioners. Instead of using few available measures from experts or roll calls, this study proposes using domestic party manifestos under the assumption of party government in order to construct indicators with variation across policy areas and over time (Budge et al. 1987, Gabel and Huber 2000). Admittedly, there is much debate about the usefulness of using party manifestos in the literature, concerning the validity of the data, the reliability of the coding and the usefulness of the coding scheme provided by the Party Manifesto Group (see for the discussion, i.e. Marks et al. 2006, McDonald et al. 2006, Gabel and Huber 2000, Gallagher et al. 2001, Woldendorb et al. 1993, Harmel et al. 1995, Laver et al. 2003). However, in addition to their cross-sectoral availability with variation over time, another advantage for their usage might be derived from the famous “Heisenberg uncertainty-principle” showing that two measures for one part – such as the voting behavior and the preferences of the voters – can hardly be determined at the same time. In this sense, roll calls are simultaneously taken under the shadow of the institutional constraints at time t_0 and expertise usually reflects these decisions at time $t+1$, while the programmatic party manifestos might indicate the positions before the actors become aware of their office at time $t-1$.

Apart from this methodological remark, this study proposes to apply a more accurate coding scheme for the analysis of EU legislative decision making which involves several steps. To retrieve policy field specific values from the party manifesto data, this study aggregates the percentage of quasi-sentences that are positively or negatively related to four EU policy sectors and to a dimension on European integration more generally, following the manifesto calculation procedure – a mix of policy positions and weights (Laver 2001). More specifically, the domestic party manifestos are merged with data on the party composition of the corresponding national governments, including the date of their inauguration and dismissal. These data are related to EU policy areas in order to compute policy positions on specific EU policy sectors like agricultural, trade, internal market and common rules politics (see appendix).²⁰ For an accurate presentation of the actors' positions, the resulting set of policy sectors and the traditional left-right dimension (for the remaining cases) were completed with a European integration to construct a two-dimensional policy space (Laver and Budge 1992, Klingemann et al. 1994, Gabel and Hix 2002, Gabel and Huber 2000, Hix 1999, Mattila and Lane 2001, Kreppel 2002, Tsebelis 2002, Hooghe et al. 2002, Pennings 2002). According to this two-dimensional sector-specific concept, the European dimension refers to the question about the extent to which the proposal should be decided at the EU level, while the sector-specific dimension indicates where the proposal should be regulated along the respective sector-specific policy scale.

According to figure 4, the political parties of four party governments are located in a two-dimensional policy space, in which the vertical axis represents the European dimension and the horizontal dimension other area-specific orderings, such as a farmer-, or consumer oriented attitude of these parties. In principal, this configuration offers several options for the identification of the positions of the member state and Commissioners. Regarding the member

²⁰ In order to avoid missing data this study applies the manifesto calculation procedure – a mix of policy positions and weights (Laver 2001).

states, most governments consist of coalition partners advising to average their policy positions.²¹ In this example, country A, B and D consist of coalition governments of two parties, while country C is a single party government. The two-dimensional positions of the coalition governments are represented by their (weighted) means (*) which define the limiting lines of the pareto set. Under these conditions, the compromise solution (S) is located in the middle of this set, which is the shortest distance to each country within this set.

Compared to the positions of the member states, it is much more difficult to account for Commissioners' positions and bias. Three options generally exist for the identification of Commissioners' positions with these data: Commissioners may pursue the interests of their domestic political party – either at the time of their nomination or at the time of the proposal initiative – or their home (coalition) government. The first political party-view corresponds to a socialization perspective at their time of nomination and Commissioners will continue to pursue this position. The other two go along with a more instrumentalist view of Commissioners because they will follow their home government or party to which they belong. For each version, the relative distance between a Commissioner's position and the most extremely located member state defines the likelihood of a bias. For example, in the party government version (*), the likelihood for a bias would be 1 if the Commissioner is from country B with the largest distance; 0 if the Commissioner would be located at the

²¹ At this step, one can calculate different measures for the preference indicators by party manifestos. Four versions have been used, a non-weighted and a weighted saliency as well as a non-weighted and a weighted position measure. The weights refer to the parties' seats in parliament, while the saliency measure also considers the relative importance of the policy domains by relating the number of statements to the total number of all statements. Regarding EU applications, the position measures suffer from the fact that the coding scheme of the party manifesto research group does not capture many EU items. For example, in the domain of agricultural politics, only two items can be used for counting party statements, which means that there is almost no variation among the position-related estimators. Only saliency indicators provide for enough variation. For this reason, only the two saliency/position estimators are taken into account.

compromise solution (S). Note that the two-dimensional conception of the policy spaces enforces the inherent delegation problem of European integration.

Figures 5a and 5b exemplify the averaged risk of a bias for the party government perspective. In the statistical analysis, however, each Commissioner will be identified by the proposal of the respective DG in the two versions of the two-dimensional policy spaces. According to these figures, the risk of a(n) (unweighted) country-bias varies over time and across policy domains. When the EU began the internal market program in the mid-1980s, the risk was particularly high in this domain but decreased until the end of this process in 1992. At this time, the German Commissioner Martin Bangemann was responsible for the internal market program. After the completion of the common market, there remains some variation in this risk over time. Another picture can be found in agricultural politics, where the risk of a country-bias increased from almost 20% to 45% between 1989 and 1993 when the Irish Commissioner MacSharry headed the DG for agricultural affairs. Afterwards, this domain was led by the Luxembourg Commissioner Rene Streichen – a country that is notably less dependent on the primary sector than Ireland. In the area of common rules, the Italian Commissioner Mario Monti had the most extreme position in the beginning of the 2000, although trade should have prompted less concern about a country-biased Commissioner.²² Whether these risks matter and how they determine the legislative process will be shown in the parametric event-history analysis, which also controls for the most important institutional reforms during the period under study, the time between the Single European Act (1987) and the Maastricht treaty (1993), and the period between the Maastricht (1993) and the Amsterdam (1999) treaties.

²² The weighted version by parliamentary seats of coalition partners indicates a similar trend in these domains with a peak around 1990. Compared to non-weighted version, common rules should yield lower concerns about the risk of a country-bias, while the risk increases in internal market policies in the mid-1990s and in trade at the end of the 1990s.

Examining the process: an event history-analysis

For the analysis of the Council's monitoring processes, this study uses event history analysis as the appropriate technique for duration analysis. Logit and probit models do not allow for censored observations to be used in estimating parameters, and thus introduce biases resulting from the deletion of such observations. Event history analysis allows to study the process of legislation - data on the number, timing, and sequence of "events" for some sample within a given continuous time period of observation. In this study, the event is the adoption of a Commission proposal which changes the value of the discrete random variable, $Y(t)$, that is defined over some time interval and that has a countable number of exhaustive and mutually exclusive values. In this case, $Y(t)$ denotes the status of a Commission proposal and can have one of two values, "pending decision" (the origin state) or "decided" (the destination state). By adopting a Commission proposal, this case moves from its origin state to the destination state. Failure event accordingly means that the adoption of the proposal did not occur.

Event history analysis uses a method of estimation that allows censored observations to be used in estimating parameters, and thus avoids biases that result from deleting such observations. The duration of an episode can be represented by a non-negative continuous stochastic variable T .²³ To test whether member states scrutinize Commission proposal in the legislative process, this study uses the time lag between a Commission proposal and a Council decision. This value can range between 1 and an infinite number of days. The suggestion is that member states need more time to scrutinize Commission proposals when the risk of a country-biased proposal increases. Figures 6 show the distribution of the duration of Commission proposals for both samples. Most proposals are decided within the first 150 days,

²³ Note that the underlying time dimension (process time) is not historical time, but a relative time axis (duration) where all episodes start at time zero. Information about when an episode occurred in historical time may be included via covariates (see below).

but there are still many proposals, which are adopted after two or three years. This picture also exists for intensely discussed B-point legislation.

The main independent variables are divergence in the positions of the member states and the distance between the mean of the member states and the Commissioner as the likelihood for a country-bias. Note that the positional mean of the member states has also been the best predictor for a more qualitative set of EU legislative outcomes which can be interpreted as their bargaining solution (Achen 2006). Other variables, such as the voting rule of the Council and the participation of the EP, may also matter for the duration of Commission proposals and are thus taken into account. In sensitive areas, the EU still requires unanimity of member states. This indicates that their level of interest for legislative proposals – and thus their efforts to scrutinize the country-bias of Commission proposals – might be higher under the unanimity rule.

Another argument can be made about the EP because MEPs voting behavior is aligned to EU political parties rather than to their countries of origin (Hix and Lord 1997, Raunio 1997, Kreppel 2002, Hix et al. 2005). The EP might thus have a similar incentive to avoid a country-bias of Commission proposals. This suggests that additional parliamentary participation under cooperation and codecision procedure will increase the duration of the legislative process. Moreover, the usage of an instrument and the location of the status quo might provide further insight into the analysis. Directives offer member states more discretionary power in the implementation stage – an effect which should reduce their efforts to control Commission proposals and therefore save time. A similar effect can be expected from the location of the status quo because the modification of existing legislation should reduce the risk of a country-bias due to the higher level of information and expertise of the member states.

To analyze how the duration of staying in a specific state is influenced by these covariates, it is convention to specify first the pattern of time-dependence by assuming a

hazard rate function (there are models in which rates change monotonically, such as Gamma, Gompertz, Weibull, while in others they change non-monotonically, e.g. inverse Gaussian, log-logistic, sickle). The second step in model formulation is to specify how the covariates affect the hazard rate function, which is estimated using the maximum likelihood (ML) method. A popular alternative to this parametric approach is to estimate a so-called semi-parametric or Cox model, in which the hazard rate is a function of an unspecified baseline rate and a vector of covariates (Zorn 2007). This model assumes that hazard rates for different values of covariates are proportional. A necessary condition for the proportional hazard assumption to be met is that the hazard functions for two categories of a covariate do not cross. A quick inspection of the data shows that the proportional hazard assumption is violated for EU decision making between 1984 and 2002.²⁴

The parametric approach assumes some specific parametric distribution of T and then makes this distribution dependent on covariates by linking them to the parameters of the distribution. Hence, while a large number of different parameterizations have been proposed in the literature, there are no established criteria for deciding what the appropriate specification is. The general rule is to choose a functional form that approximates the hypothesized shape of the hazard function. The simplest parametric hazard rate model is the exponential model, which assumes that the hazard rate is a time-invariant constant. A quick inspection of Figures 6 shows that this assumption is possibly violated for EU decision making between 1984 and 2002. These figures suggest that it is appropriate to estimate a model in which rates change non-monotonically, and the log-logistic model is often proposed when the hazard rate has a non-monotonic pattern. The model is estimated using the

²⁴ The Grambsch/Therneau-test also shows that when estimating a Cox model with interaction effects between covariates and process time, the coefficients of the interaction variables are non-zero and highly significant, indicating a clear violation of the proportionality assumption. However, the findings by the Cox model are almost identical.

maximum likelihood method. Table 2 summarizes the findings in terms of the effect of a variable on the hazard rate.

Table 2 lists the findings where the coefficient of a variable indicates the direction of the effect on the hazard rate. The models distinguish between the operationalization of the Commissioners' preferences (according to the instrumental view of current governmental or party preferences on time or to the role perspective on the party preferences at their time of nomination) and a weighted version which considers the size of the coalition partners by their seats in parliament. All analyses present two-dimensional positional indicators, controlling for core policy areas in terms of interaction effects. The overall sample concerns all Commission initiatives, while the other reduces the sample to discussed B-point legislation. All models include the institutional variables of previous duration studies, such as qualified majority versus unanimous decision making in the Council (Rule), whether the EP participated under codecision and cooperation procedure or not (Parliam), whether it proposed to change existing legislation or not (Amend), and whether it used a directly applicable instrument (regulation, decision) or a directive which offers more discretionary power to the member states (Instrument). Furthermore, they include a resubmission by a Commissioner (Resubmit) and it also controls for the time before and after the accessions before 1985 and in the mid-1990s.

According to these results, the findings are neither changed by different views on the Commissioners' background nor the weight of the coalition partners: in all models, the divergence of member states' positions is a very important effect of similar size on the process of all legislation: the more diverse the positions of the member states are, the longer is the duration of the process. In most policy areas, such as internal market, common rules and often in agricultural politics, this effect is even reinforced, while the findings on trade should be interpreted cautiously due to large changes of z-values. Under B-point legislation this effect of positional divergence is even more pronounced confirming the hypothesis that the

time spent on scrutinizing and amending Commissioners' proposals is a positive function of the divergence in member state positions. Obviously and in line with spatial analysis, member states evaluate their positional distances higher when they are salient. For all cases and independent from the conceptualization of Commissioners' positions, another very important factor is the bias-risk of a Commissioner (Bias), but the Commission can almost reverse this effect when modifying its initial proposal (Resubmit). This result indicates that Commissioners do not have perfect foresight in legislative decision making. They significantly attempt to pursue the interests of their home country, but when member states signal to amend their proposal, they prefer to resubmit a modified version which shortens the process.

Positional divergence matters more strongly for discussed B-item cases, while bias and the Commission's reaction are insignificant for this subsample. This particularly confirms the models' predictions on the impact of Commissioners' bias who abstain from attempting to pursue own interests when member states indicate high salience on their proposals. Here, amending legislation (Amend) also helps member states to find a solution and to prevent from Commissioners' bias, in particular for agricultural matters. Additionally, the Council's decision rule (Rule) is sometimes significant for these discussed proposals and indicates that using qualified majority voting can even lengthen the decision-making process. Obviously, positional divergence dominates intensely discussed proposals and member states accordingly stretch the deliberation phase when they are threatened by being outvoted under qualified majority voting. This prolongs the decision-making process and increases the likelihood for intense scrutiny by member states, which prevents a Commissioner from trying to pursue the goals of her home country. Consequently, resubmission is also obsolete for this subsample. This is also supported by results for instrument where directives offer more discretionary power to the member states but are insignificant for B-item legislation.

In more detail, Figures 6 and 7 illustrate the predicted probabilities of the important preference variables for failure event (not adopted) which support the view of a principal agent relationship between positional divergence of member states and bias of Commission proposals (using the party government model with unweighted partners). According to figures 6, large differences in the member states' positions particularly affect the hazard rate until the first 2,000 days where most of Commission proposals are decided. Around 2,000 days the probability for adoption is the lowest in case of large divergence of member states. Lower distances do not have the same impact on the hazard rates but they continuously matter for the duration of the legislative process. Compared to the complete sample, the subsample of legislation shows a more pronounced relationship between divergence and discussed legislation in figure 6b: while low and middle differences do not much affect the duration, large distances especially matter until about 1,200 days, with a decreasing but still important effect after this time. In figures 7, the bias of a Commissioner also affects the legislative process in the expected direction: the higher the risk of a bias, the higher the hazard rate of Commission proposals, which last about 1,800 days in the legislative process. Unsurprisingly, bias only affects a very small sample of discussed proposals which are longer than about 2,000 days in the legislative process. These figures also demonstrate that the effects of the major variables, divergence and bias, are independent from the type of preferences used.

Divergence, bias and the goal of European integration

This study proposed and analyzed another view of the inter-institutional interaction between Commissioners, member states and the EP. With respect to the legislative process, it drew the attention to the duration of Commission proposals and investigated whether the time spent on scrutinizing and amending these proposals is a positive function of the divergence in the member states' positions and the risk of biased drafting by a Commissioner respectively a negative function of resubmitted proposals, which is also determined by the saliency level of

the actors involved. Compared to previous duration analyses, this perspective might also provide another understanding of the effects of institutional characteristics, such as parliamentary participation, legislative instrument and type.

The econometric findings strongly support the view that member states respond to the inherent risk of biased Commissioners in accordance with their divergence in their positions (H1) and an increase in the distance of a Commissioner's position to the mean of the member states (H3): the higher the likelihood for a Commissioner's bias and the more heterogeneous the positions of the member states are, the more time they invest in monitoring the proposal. Similarly, Commissioners can resubmit their proposal which reduces the length of the process (H4). Additional parliamentary scrutiny stretches the process (H5), while amending legislation and directives increase the level of information respectively the discretionary power of member states which reduce the duration (H6, H7). For intensely discussed legislation, this effect is even more pronounced, while the risk of a Commissioner's bias and the Commissioner's reaction are insignificant for this subsample (H2). Member states also stretch the deliberation phase of this kind of legislation when they are threatened by being outvoted. Saliency prolongs the decision-making process and increases the likelihood for intense scrutiny by member states, which prevents a Commissioner from trying to pursue own goals. Consequently, resubmission is also obsolete for this subsample. This is confirmed by results for instrument.

Compared to previous studies on the decision making process, testing these hypotheses required measuring of actors' positions which vary over time and across sectors. This study presented a new approach for measuring the positions of member state governments and Commissioners using party manifestos and a new coding scheme for constructing a sector-specific two-dimensional policy space. A methodological concern of previous analyses addressed the problem of time varying covariates which may change their effects over time. One possibility to address this problem is using dummy variables which

control for these effects at several points in (historical) time (Golub and Steunenberg 2007). Another possible explanation for these effects relates to changes in positional attitudes which are induced by governmental and coalitional changes in the member states. On closer inspection of the sample, there are 2792 cases which not only experienced positional change due to national elections and coalitional changes, but they also affected the relative positional distances and the likelihood for Commissioners' bias in the two-dimensional policy spaces. This raises the question whether and how positional changes impact the hazard rate of this subsample. According to figure 8, the hazard rate for the affected subsample differs in the expected direction: cases without changes in the positions have a three times higher adoption probability within about 1000 days where most of the proposals are decided. Thus, positional divergence and positional changes clearly explain the duration of the process in the hypothesized direction.

Another critical point concerns the conception of the positions of the Commissioners. While it is plausible to conceive party governments as representatives of the member states, several conceptions were evaluated for the Commissioners' positions which did not have a significant impact on the results. Except for the political party view in the weighted version, bias always influences the duration in the expected direction, while it only remains significant for the political party perspective at the time when the Commissioner has been appointed. However, whether Commissioners follow a particular party or a coalition government does not change the findings. Admittedly, the findings rely on the assumption that member states' and Commissioners' positions are embedded in the party systems of their country of origin – an assumption that can hardly be verified for the entire history of EU legislative activities.

Under this assumption, the statistical results provide strong support for the existence of an inherent principal agent-problem and the response indicated by the member states. The duration of the legislative process is a function of the risk of a bias and the divergence of the positions of the member states. Moreover, the resubmission of a proposal shortens the

duration of the legislative process. This activity of the Commission in reaction to the Council not only confirms the hypothesized problem, but it also indicates some limited foresight of the following process. Other factors, such as parliamentary participation and the Council's voting rule are less important for determining the duration of this process, and their effect also depends on the type of legislation. This does not mean that these institutional variables do not play a role in explaining the EU legislative process. However, if member states have divergent positions and if the bias of a Commissioner is high, it does not significantly matter which voting rule they use or whether they share power with the EP.

In the event of more intensely discussed legislation, positional divergence almost exclusively matters for the length of the process, which also changes the expected sign of Council decision rule and makes Commission activities insignificant. This finding is also expected because member states raise their level of attention and scrutiny for this sample due to their "weighted" distances which imply higher losses in the event of a hostile proposal. Consequently, Commissioners abstain from attempting to pursue their own goals, making also obsolete the resubmission of their proposal. At first sight, these results seem only to confirm our common understanding that the level of positional diversity matters for decision making. On closer inspection, however, the findings may change our understanding of the interplay between Commissioners and the member states in EU legislative politics. They suggest a link between the Commissioners' appointments with the legislative process.

The statistical analysis shows that the country-origin of Commissioners is a significant explanatory factor in regular legislation, and that positional divergence of member states is crucial for explaining the legislative process. However, in particular the subsample findings on intensely discussed proposals provide evidence that the member states are aware of this problem, and that they have established an effective monitoring system in order to counter-balance the inherent risk of biased proposals. If a proposal is indicated of being discussed, Commissioners seem to abstain from pursuing the risk of their home country. This suggests

that the member states can effectively achieve the goal of European integration and do not waste their time, in particular in the case of biased Commissioners.

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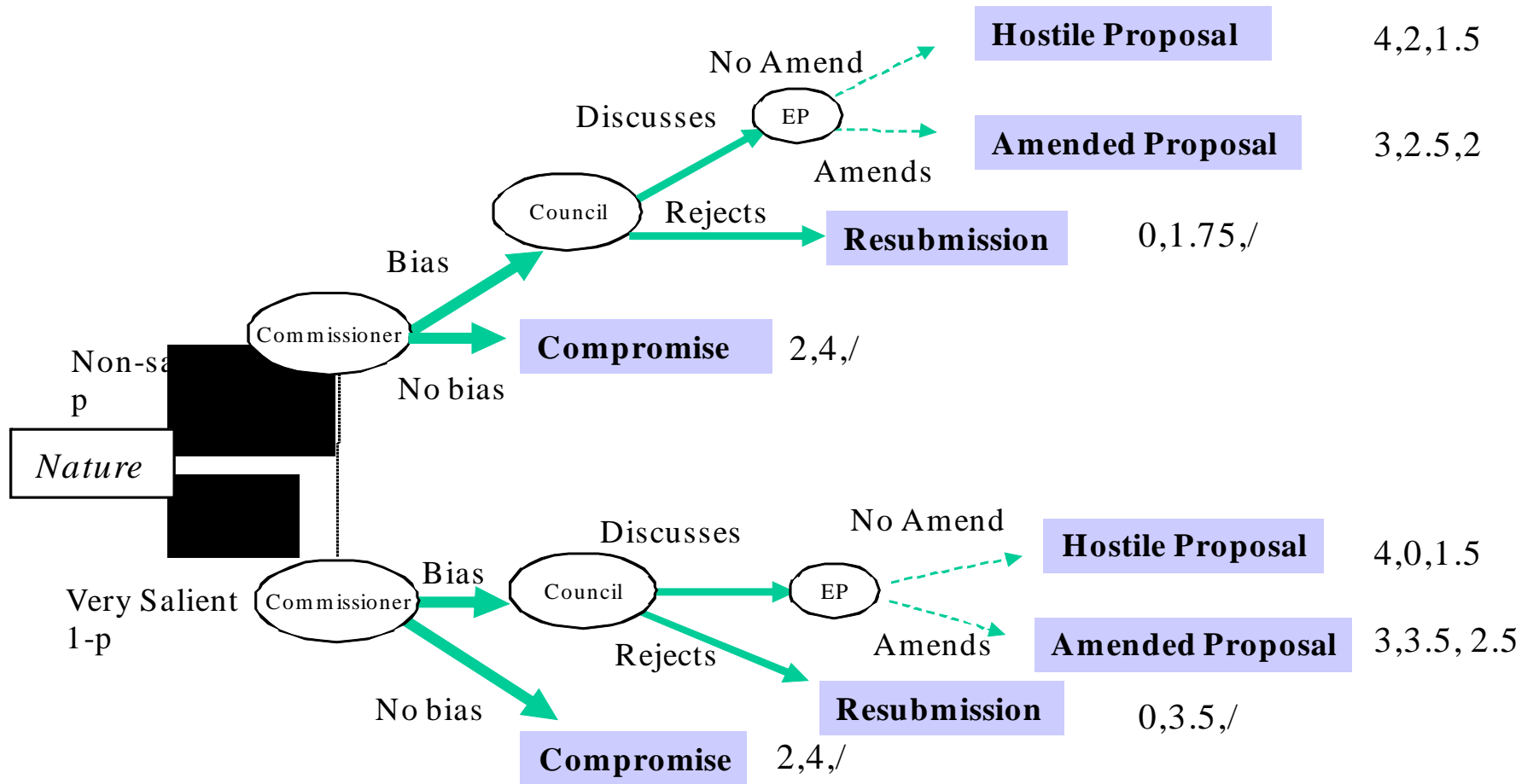
Table 1: Descriptive Statistics

		All cases	%	B-Items	%
Adopted	0 (= pending or withdrawn)	513	6.4	29	2.4
	1 (= yes)	7514	93.6	1172	97.6
Rule	0 (= unanimity)	2621	32.7	321	26.7
	1 (= qualified majority)	5176	64.5	855	71.2
Parliament	1 (= participates)	864	10.8	142	11.8
	0 (= no)	6947	86.5	1035	86.2
Instrument	0 (= directive)	1030	12.8	229	19.1
	1 (= regulation or decision)	6997	87.2	972	80.9
Amend	0 (= no)	5299	66	826	68.8
	1 (= yes)	2728	34	375	31.2
Resubmit	0 (= no)	6824	85	879	73.2
	1 (= yes)	1203	15	322	26.8
Agricultural Sector	0 (= no)	5082	63.3	488	40.6
	1 (=yes)	2945	36.7	713	59.4
Trade Sector	0 (= no)	5910	73.6	1116	92.9
	1 (=yes)	2117	26.4	85	7.1
Internal Market	0 (= no)	7500	93.4	1153	96
	1 (=yes)	527	6.6	48	4
Common Rules	0 (= no)	7363	91.7	1107	92.2
	1 (=yes)	664	8.3	94	7.8
1.1.1995-	1 (= yes)	2526	31.5	333	27.7
	0 (= before)	5501	68.5	868	72.3

Table 2: Parties and Party Government (weighted and unweighted version)

Party Government (on time and unweighted)					Political Party (at time of appointment and unweighted)					Political Party (on time and unweighted)				
	<i>All cases</i>	<i>p</i>	<i>B points</i>	<i>p</i>		<i>All cases</i>	<i>p</i>	<i>B points</i>	<i>p</i>		<i>All cases</i>	<i>p</i>	<i>B points</i>	<i>p</i>
Divergence	-0.697***	0.001	-3.151***	0.001	Divergence	-0.674***	0.001	-4.1***	0	Divergence	-0.68***	0.001	-3.762***	0
Bias	-0.44***	0.001	-0.082	0.8	Bias	-0.108*	0.05	-0.393*	0.156	Bias	-0.128**	0.05	-0.268	0.156
Internal Market	-0.453	0.495	-2.458	0.612	Internal Market	-0.455	0.53	-2.811	0.347	Internal Market	-0.455	0.53	-2.541	0.347
Trade	0.174**	0.013	44.186***	0	Trade	0.175**	0.014	207.444***	0	Trade	0.183**	0.014	-2514.222**	0
Agriculture	0.02**	0.013	2.632***	0.004	Agriculture	-0.018**	0.023	3.805***	0.001	Agriculture	-0.015**	0.023	3.534***	0.001
Common Rules	-0.336	0.208	-4.917	0.205	Common Rules	-0.318	0.202	-5.29	0.263	Common Rules	-0.312	0.202	-5.16	0.263
Resubmit	0.426***	0	0.015	0.925	Resubmit	0.423***	0	-0.001	0.977	Resubmit	0.428***	0	0.004	0.977
Amend	0.198***	0.001	0.707***	0	Amend	0.195***	0.001	0.671***	0	Amend	0.196***	0.001	0.725***	0
Instrument	-0.167**	0.019	0.117	0.356	Instrument	-0.163**	0.024	0.129	0.35	Instrument	-0.161**	0.024	0.118	0.35
Parliam	0.11	0.109	0.05	0.757	Parliam	0.089	0.196	0.028	0.851	Parliam	0.089	0.196	0.031	0.851
Rule	-0.071	0.283	-0.253*	0.069	Rule	-0.09	0.155	-0.171	0.162	Rule	-0.094	0.155	-0.201	0.162
1986-1994	0.045	0.66	2.645***	0.007	1986-1994	0.076	0.535	2.53***	0.009	1986-1994	0.063	0.535	2.536***	0.009
>1995	-0.467***	0	-0.418	0.252	>1995	-0.446***	0	-0.73*	0.118	>1995	-0.439***	0	-0.616	0.118
Constant	7.973***	0	8.343***	0	Constant	7.91***	0	9.183***	0	Constant	7.917***	0	8.895***	0
N	7797		1176		N	7797		1176		N	7797		1176	
Log-Likelihood	-4222		-219		Log-Likelihood	-4226		-217		Log-Likelihood	-4226		-218	
Party Government (on time and weighted)					Political Party (at time of appointment and weighted)					Political Party (on time and weighted)				
	<i>All cases</i>	<i>p</i>	<i>B points</i>	<i>p</i>		<i>All cases</i>	<i>p</i>	<i>B points</i>	<i>p</i>		<i>All cases</i>	<i>p</i>	<i>B points</i>	<i>p</i>
Divergence	-0.697***	0.01	-3.151***	0.024	Divergence	-0.674***	0.017	-4.1***	0.015	Divergence	-0.47**	0.017	-2.015**	0.015
Bias	-0.44***	0.015	-0.082	0.902	Bias	-0.108*	0.22	-0.393*	0.357	Bias	-0.095	0.22	-0.225	0.357
Internal Market	-0.453	0.863	-2.458	0.589	Internal Market	-0.455	0.988	-2.811	0.413	Internal Market	-0.465	0.988	-1.082	0.413
Trade	0.174**	0.004	44.186***	0	Trade	0.175**	0.005	207.444***	1	Trade	0.409***	0.005	-0.613	1
Agriculture	0.02**	0.039	2.632***	0.007	Agriculture	-0.018**	0.088	3.805***	0.008	Agriculture	0.003*	0.088	4.04***	0.008
Common Rules	-0.336	0.5	-4.917	0.048	Common Rules	-0.318	0.532	-5.29	0.065	Common Rules	-0.298	0.532	-4.143*	0.065
Resubmit	0.426***	0	0.015	0.733	Resubmit	0.423***	0	-0.001	0.746	Resubmit	0.432***	0	0.057	0.746
Amend	0.198***	0.001	0.707***	0	Amend	0.195***	0.001	0.671***	0	Amend	0.206***	0.001	0.856***	0
Parliam	0.11	0.114	0.05	0.984	Parliam	0.089	0.176	0.028	0.93	Parliam	0.093	0.176	-0.016	0.93
Rule	-0.071	0.274	-0.253*	0.051	Rule	-0.09	0.164	-0.171	0.086	Rule	-0.092	0.164	-0.274*	0.086
1986-1994	0.045	0.766	2.645***	0.025	1986-1994	0.076	0.641	2.53***	0.13	1986-1994	0.051	0.641	1.141	0.13
>1995	-0.467***	0	-0.418	0.076	>1995	-0.446***	0	-0.73*	0.051	>1995	-0.458***	0	-1.088*	0.051
Constant	7.973***	0	8.343***	0	Constant	7.91***	0	9.183***	0	Constant	7.846***	0	8.645***	0
N	7797		1176		N	7797		1176		N	7797		1176	
Log-Likelihood	-4222		-219		Log-Likelihood	-4226		-217		Log-Likelihood	-4227		-225	

Figure 1: Legislative Oversight in the Process of EU Legislative Decision making with Uncertainty and Perceptions



Commissioner: Hostile Proposal (4) > Amended (3, 2.5) > Compromise (2) > Resubmission (0,-1.5)
 Council (Non-salient): Compromise (4) > Amended (2.5) > Hostile Proposal (2) > Resubmission (1.75)
 Council (Salient): Compromise (4) > Resubmission (3.5) = Amended (3.5) > Hostile Proposal (0)
 EP: Amended (2, 2.5) > Hostile
 p=Probability that Council will **not** pay much attention and **hardly** scrutinize by holding hearings etc.
 1-p=Probability that Council will pay attention and **intensely** scrutinize, holding hearings etc.

Figure 2: Number of Proposals and Decisions per Year

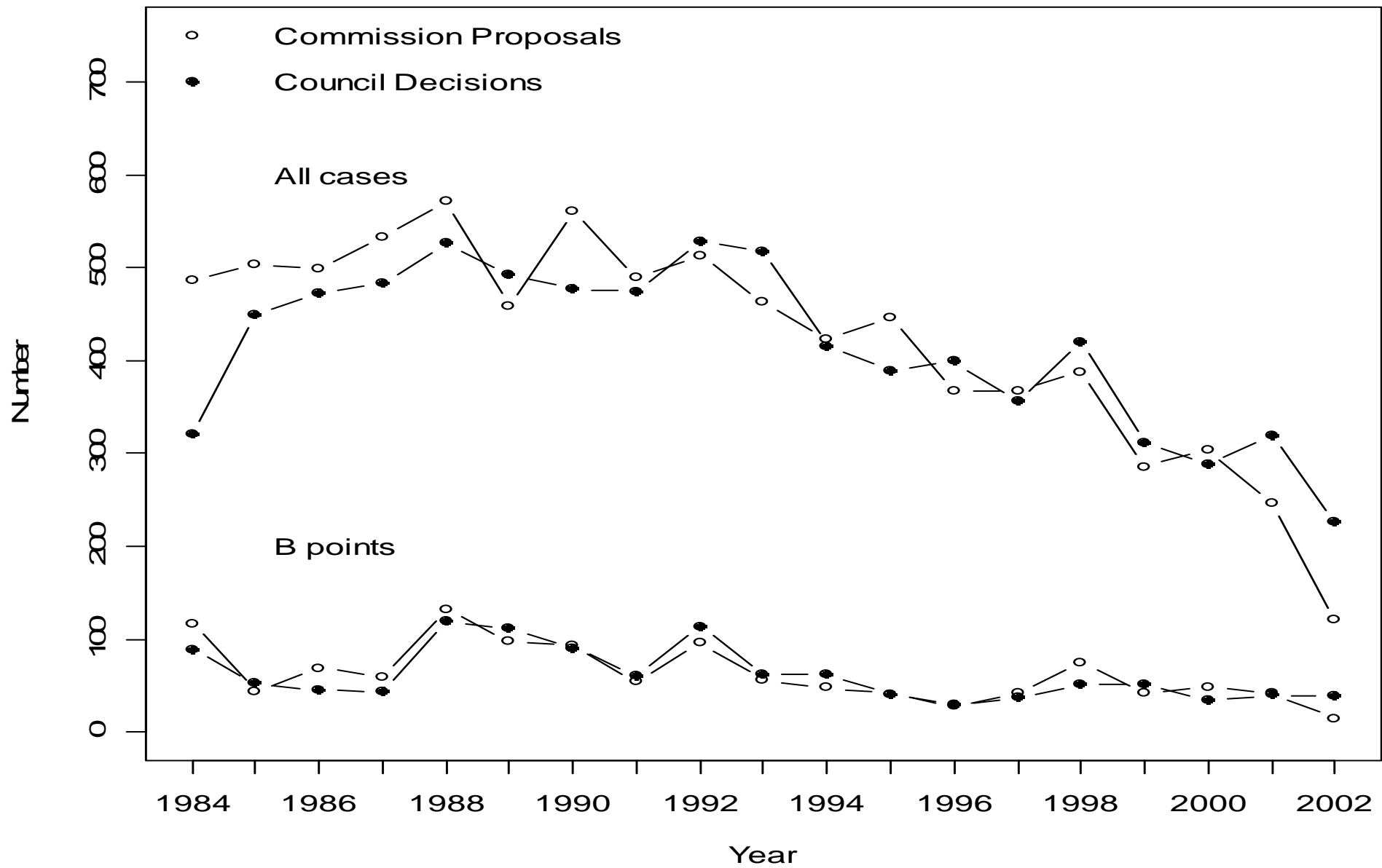


Figure 3: Median Proposal-Decision Time Lag by Year

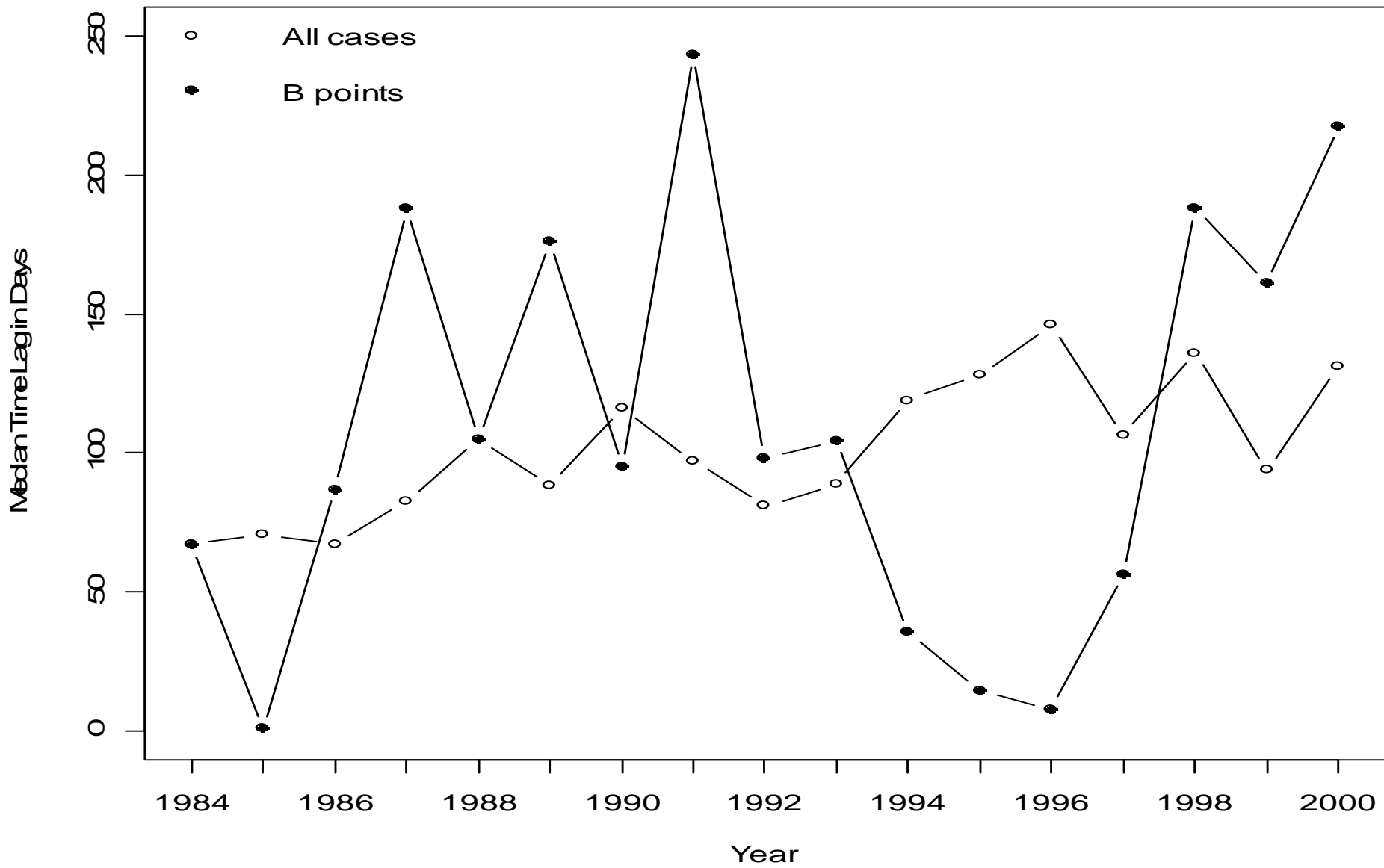


Figure 4a: Risk of Bias of Commissioners by Policy Domain
All Cases

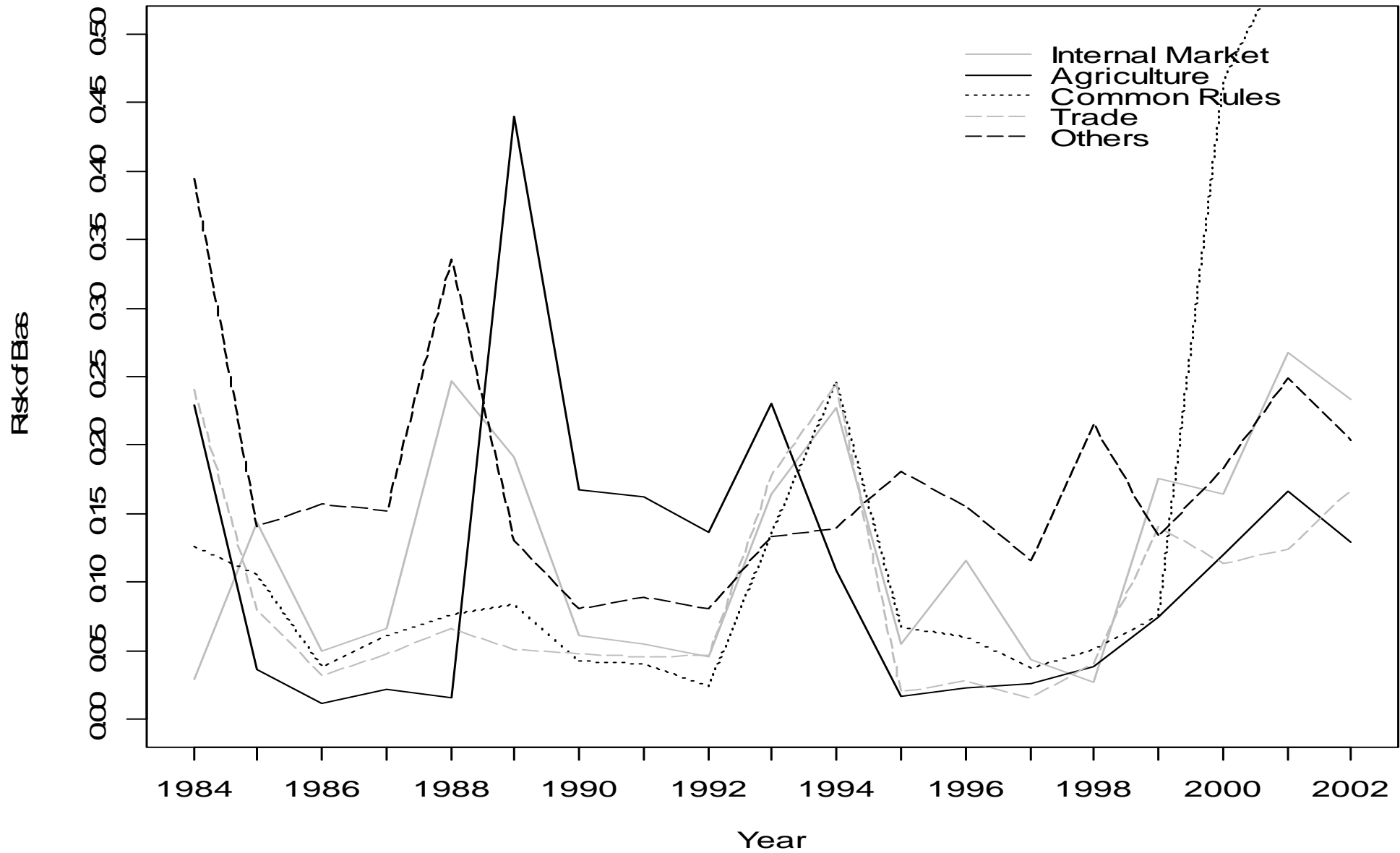


Figure 4b: Risk of Bias of Commissioners by Policy Domain
B Points

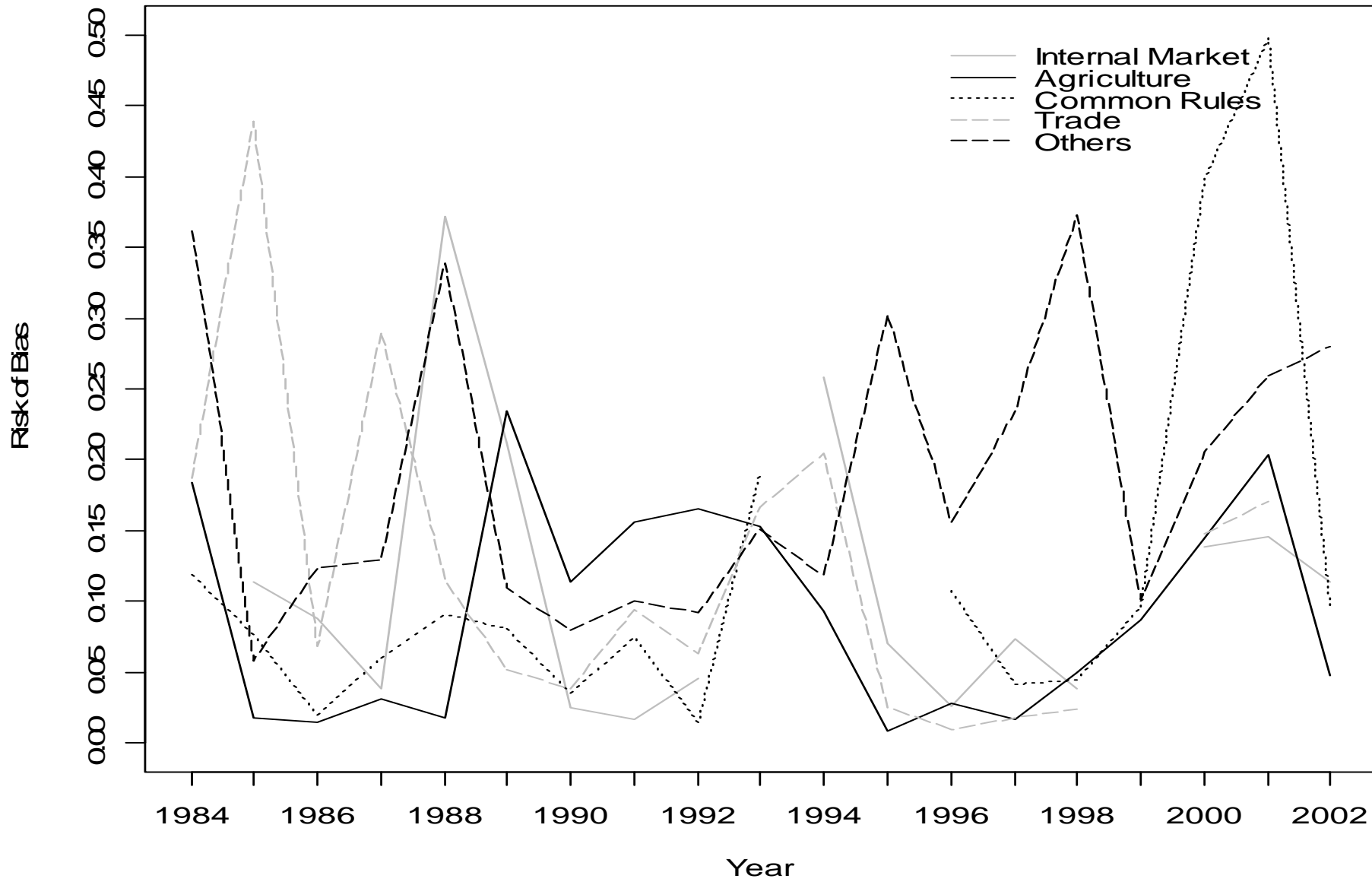


Figure 5a: Distribution of the Duration in Days
All Cases

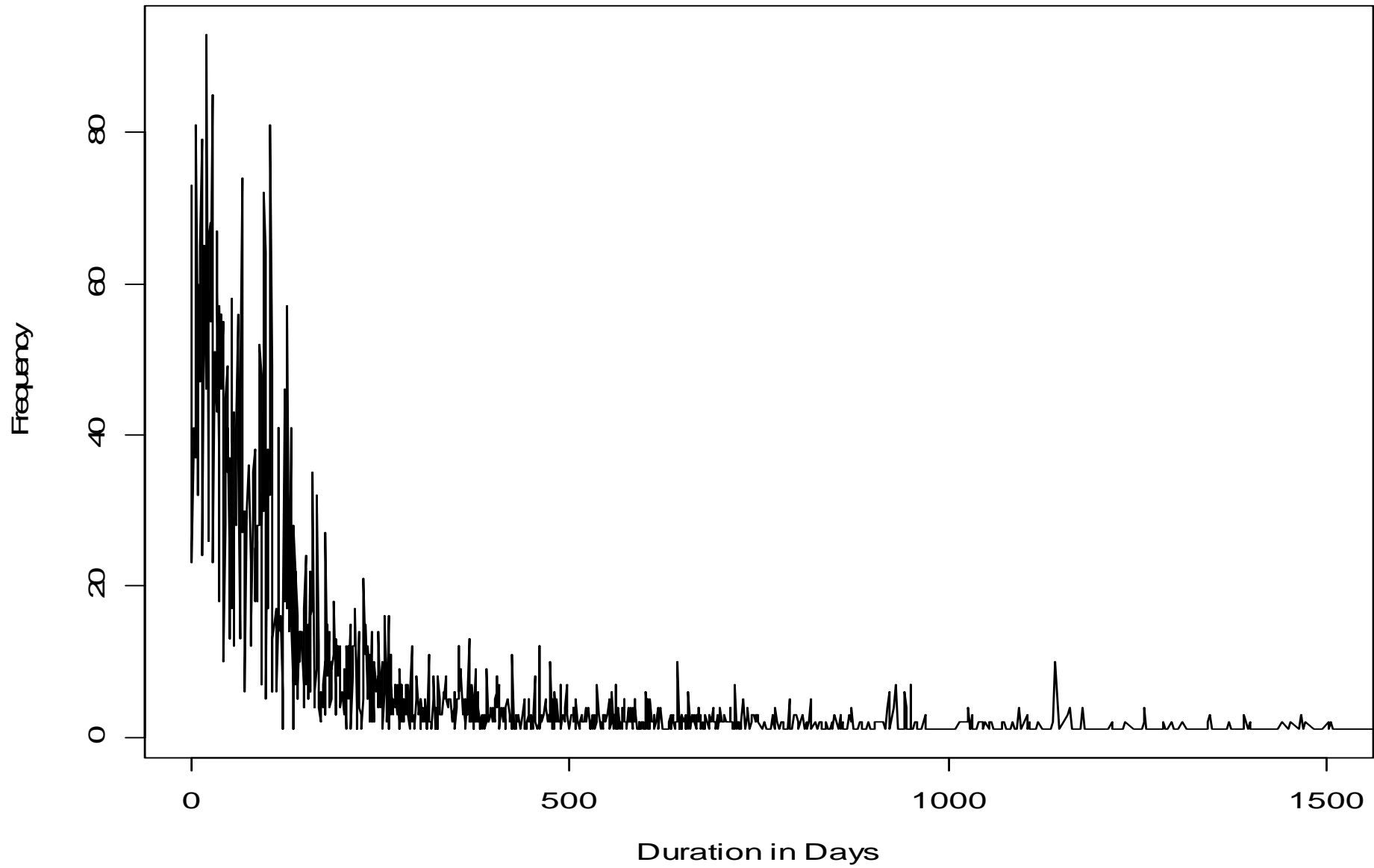


Figure 5b: Distribution of the Duration in Days
B Points

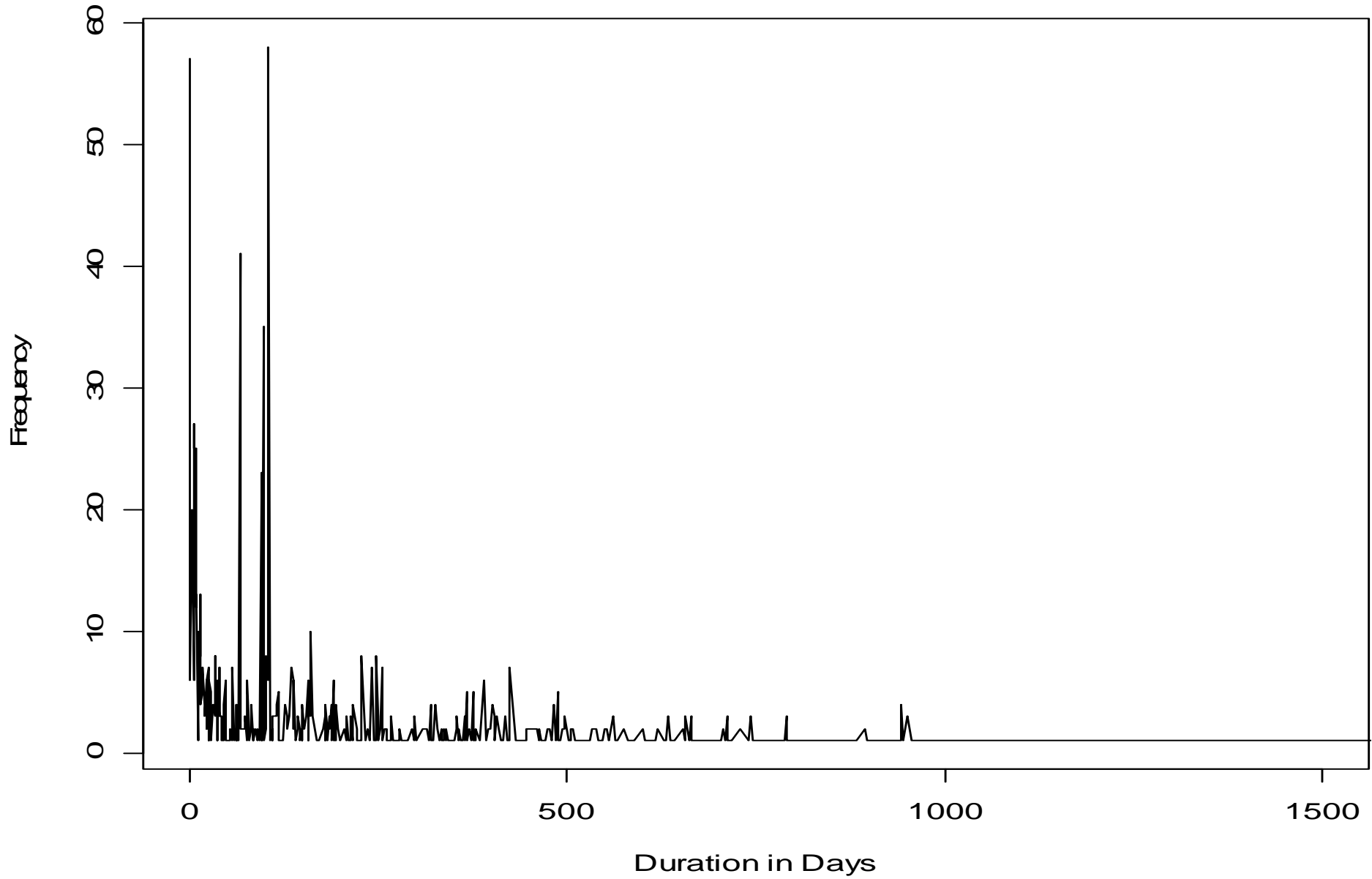


Figure 6a: Hazard Rates by Positional Divergence of Member States
(All Cases - Unweighted Preferences)

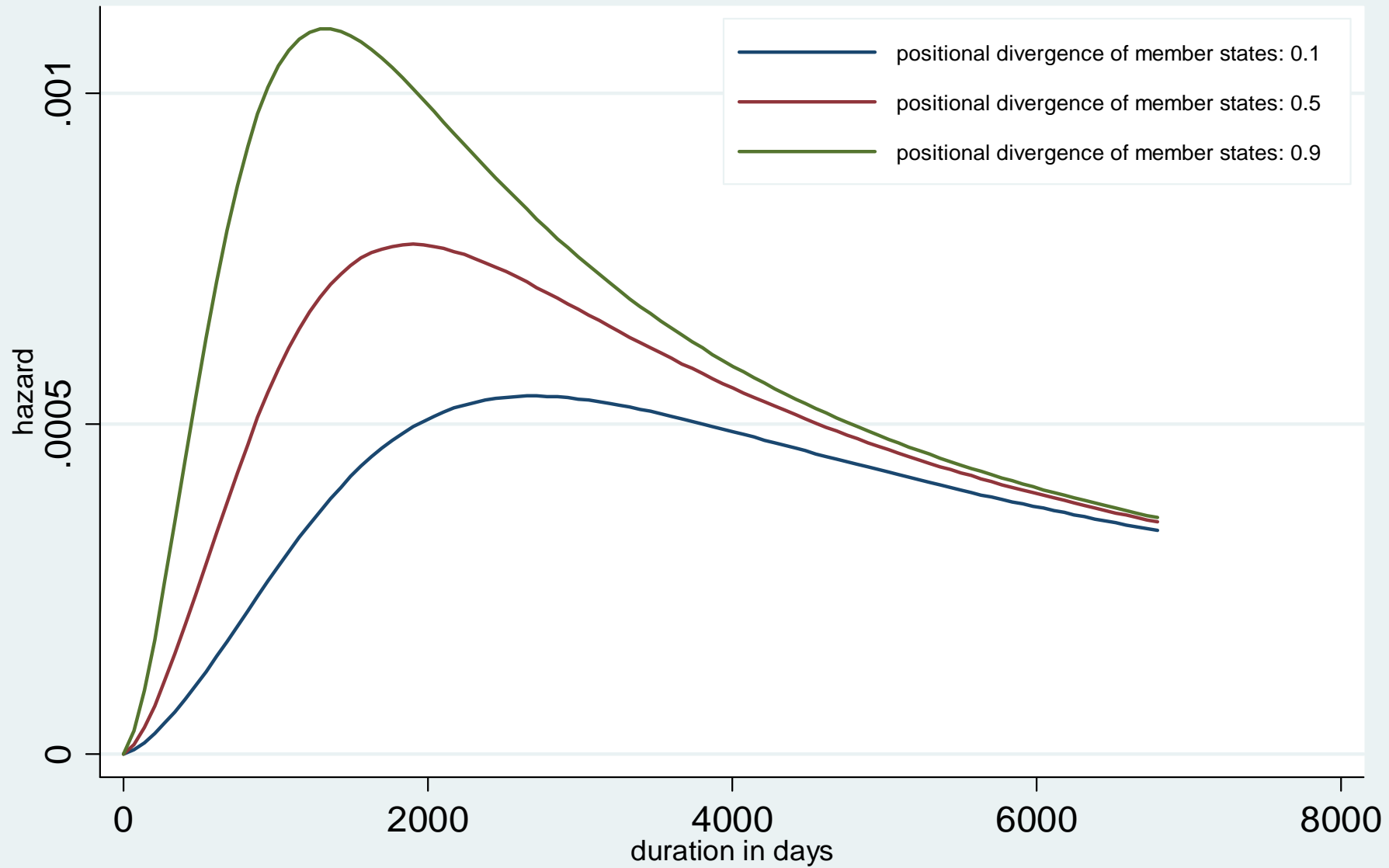


Figure 6b: Hazard Rates by Positional Divergence of Member States - All Cases
(B - Points - Unweighted Preferences)

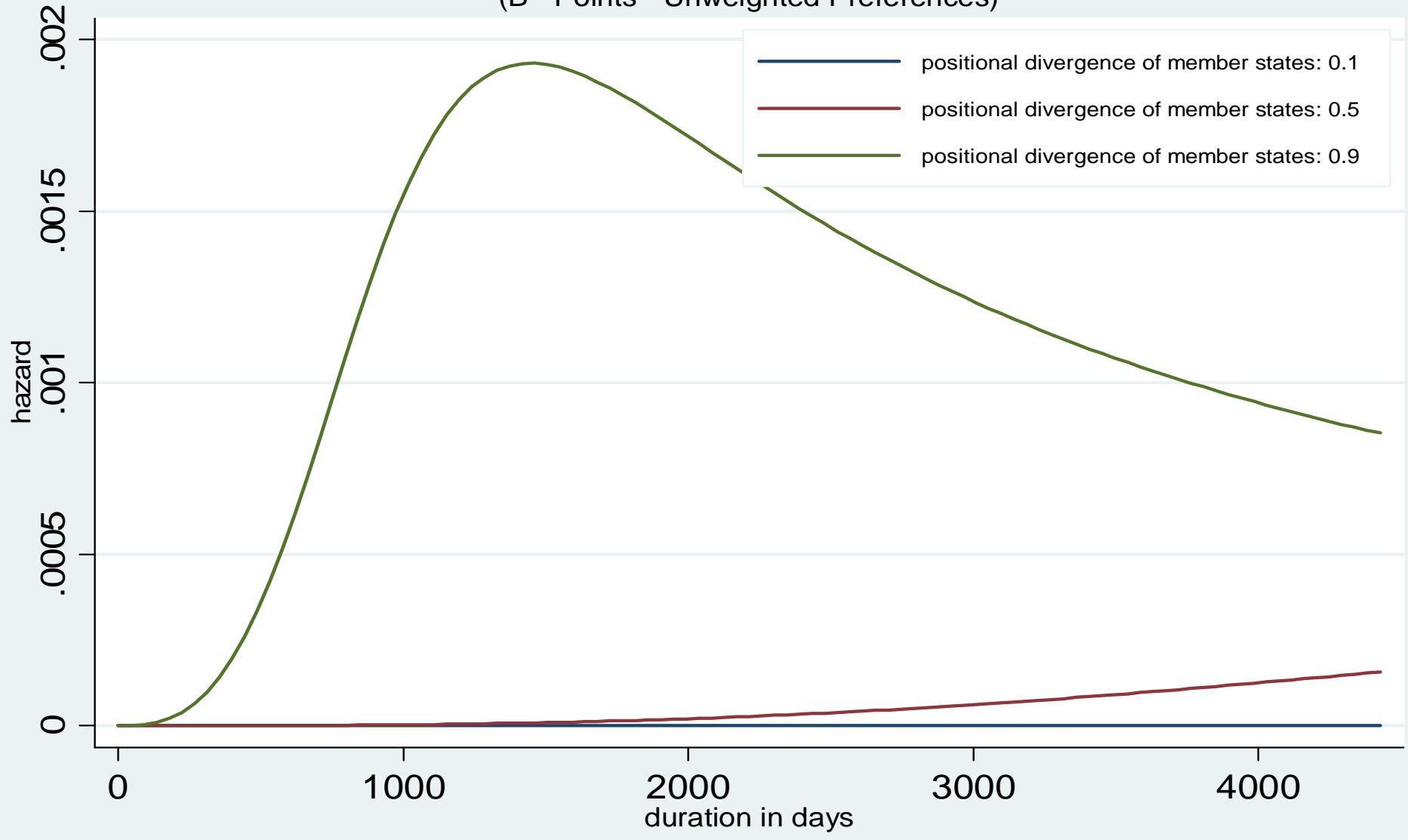


Figure 7a: Hazard Rates at Different Risks of a Bias
(All Cases - Unweighted Preferences)

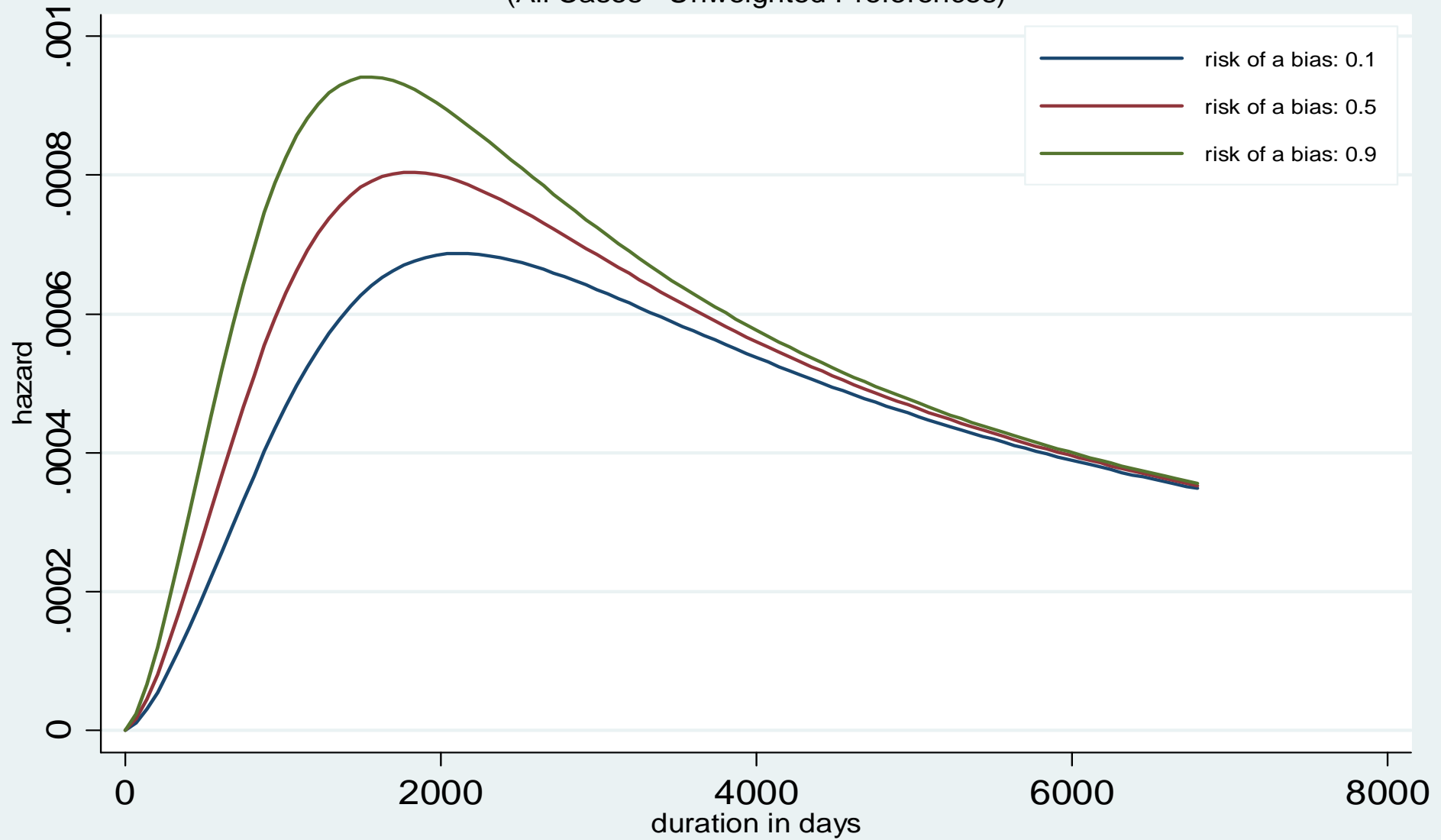


Figure 7b: Hazard Rates at Different Risks of a Bias
(B - Points - Unweighted Preferences)

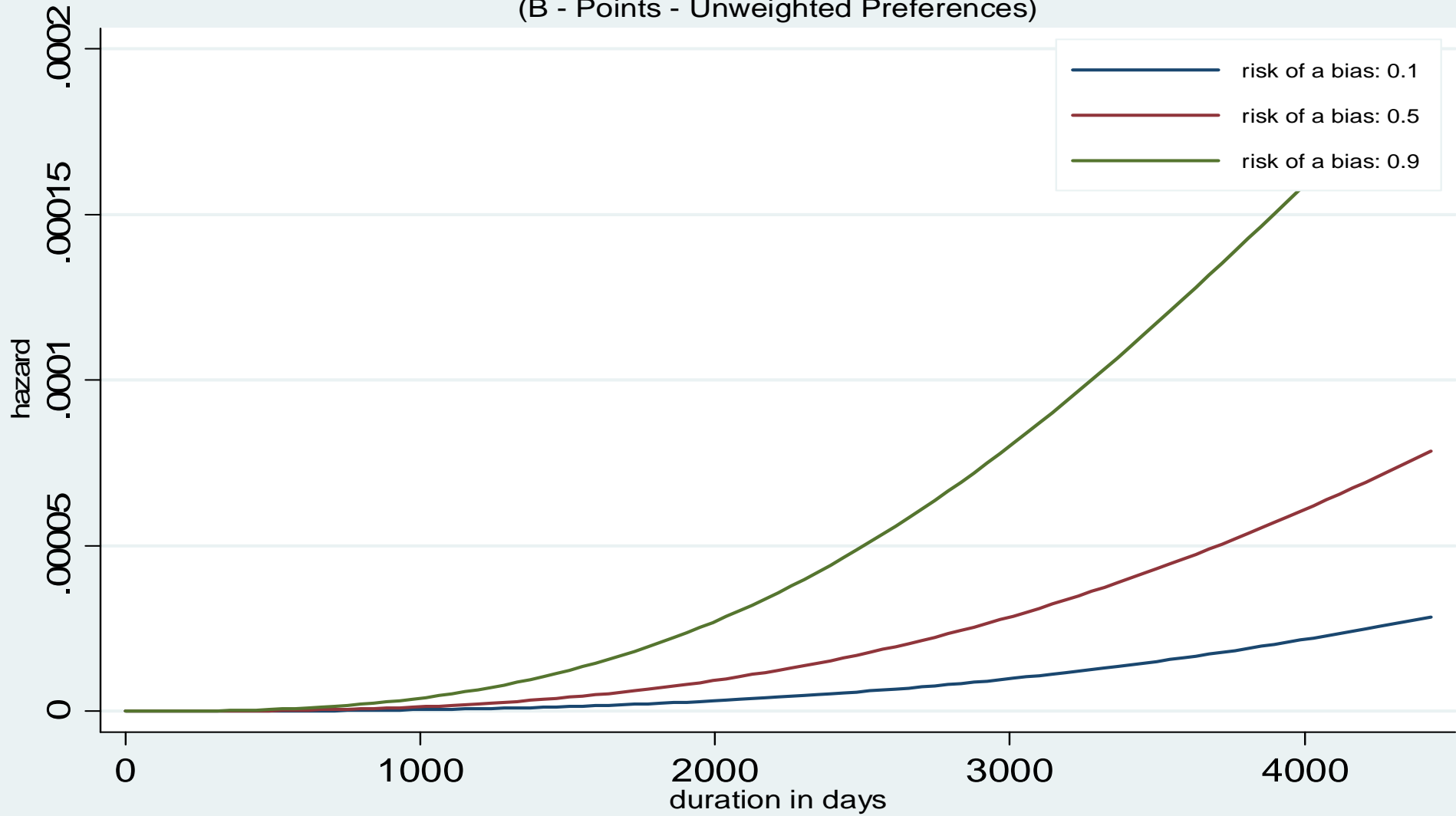
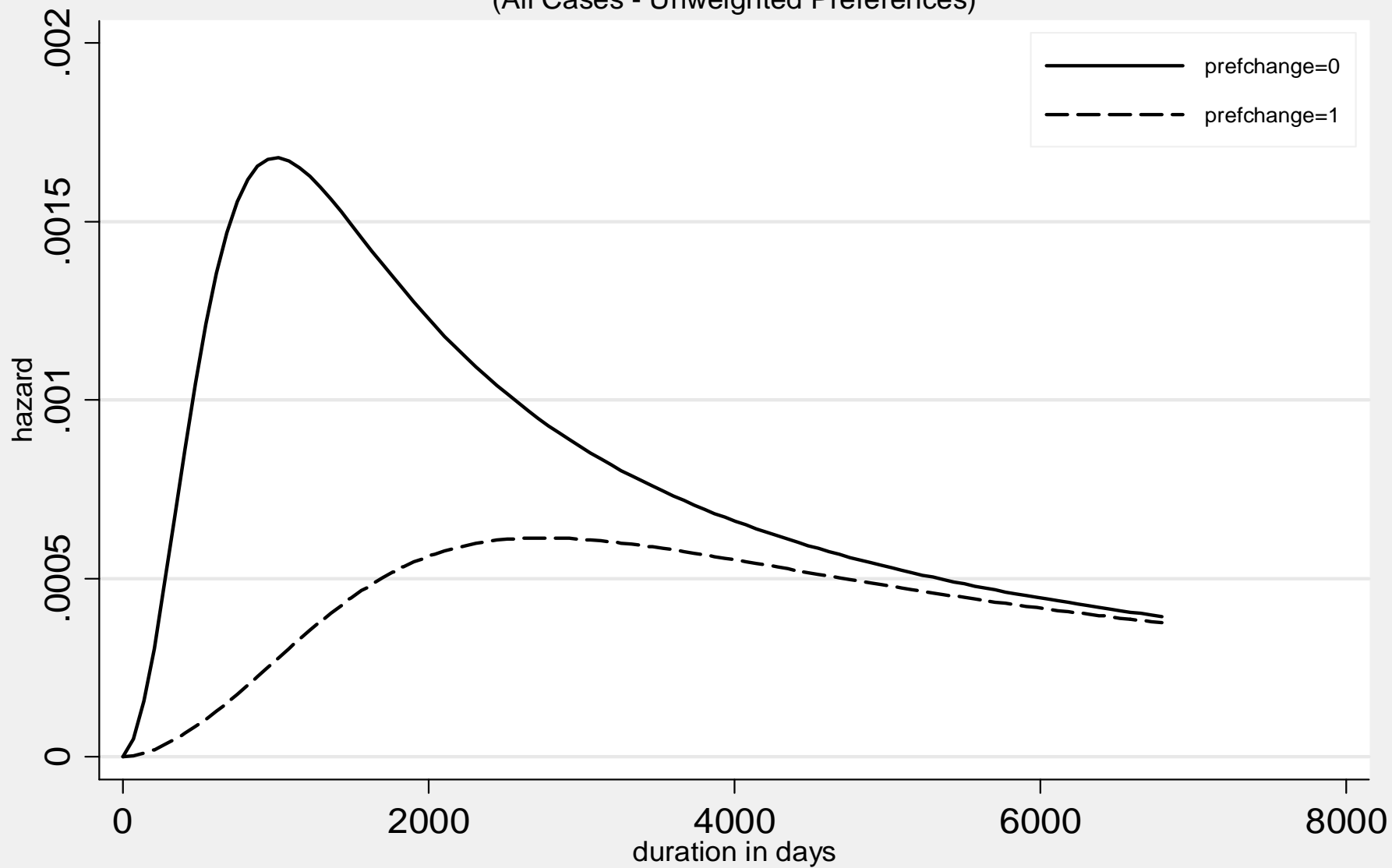


Figure 8: Effect of Preference Change
(All Cases - Unweighted Preferences)



Appendix

Dimensions	Items	
European Integration	Positive	European Community: Favorable mentions of European Community in general; desirability of expanding the European Community and/or of increasing its competence; desirability of the manifesto country joining (or remaining a member).
	Negative	European Community: Hostile mentions of the European Community; opposition to specific European policies which are preferred by European authorities; otherwise as European Integration but negative.
Internal Market	Positive	<p>Freedom and Human Rights: Favorable mentions of importance of personal freedom and civil rights; freedom from bureaucratic control; freedom of speech; freedom from coercion in the political and economic spheres; individualism in the manifesto country and in other countries.</p> <p>Decentralization: Support for federalism or devolution; more regional autonomy for policy or economy; support for keeping up local and regional customs and symbols; favorable mentions of special consideration for local areas; deference to local expertise.</p> <p>Free Enterprise: Favorable mentions of free enterprise capitalism; superiority of individual enterprise over state and control systems; favorable mentions of private property rights, personal enterprise and initiative; need for unhampered individual enterprises.</p> <p>Incentives: Need for wage and tax policies to induce enterprise; encouragement to start enterprises; need for financial and other incentives such as subsidies.</p> <p>Market Regulation: Need for regulations designed to make private enterprises work better; actions against monopolies and trusts, and in defense of consumer and small business; encouraging economic competition; social market economy.</p> <p>Economic Planning: Favorable mentions of long-standing economic planning of a consultative or indicative nature, need for government to create such a plan.</p> <p>Technology and Infrastructure: Importance of modernization of industry and methods of transport and communication; importance of science and technological developments in industry; need for training and research. This does not imply education in general</p>
	Negative	Nationalization: Favorable mentions of government ownership, partial or complete, including government ownership of land.

Trade Politics	Positive	<p>Protectionism: Negative: Support for the concept of free trade; otherwise as 406, but negative.</p> <p>Productivity: Need to encourage or facilitate greater production; need to take measures to aid this; appeal for greater production and importance of productivity to the economy; increasing foreign trade; the paradigm of growth.</p>
	Negative	<p>Protectionism: Positive: Favorable mentions of extension or maintenance of tariffs to protect internal markets; other domestic economic protectionism such as quota restrictions.</p> <p>Anti-Growth Economy: Favorable mentions of anti-growth politics and steady state economy; ecologism; "Green politics"; sustainable development.</p>
Common Rules	Positive	<p>Centralization: Opposition to political decision making at lower political levels; support for more centralization in political and administrative procedures; otherwise as Decentralization, but negative.</p> <p>Governmental and Administrative Efficiency: Need for efficiency and economy in government and administration; cutting down civil service; improving governmental procedures; general appeal to make the process of government and administration cheaper and more effective.</p> <p>Political Accountability: Favorable mentions to strong governments, including government stability.</p>
	Negative	<p>Decentralization: Support for federalism or devolution; more regional autonomy for policy or economy; support for keeping up local and regional customs and symbols; favorable mentions of special consideration for local areas; deference to local expertise.</p> <p>Political Corruption: Need to eliminate corruption, and associated abuse, in political and public life.</p>
Agricultural Politics	Positive	<p>Controlled Economy: General need for direct government control of economy; control over prices, wages, rents, etc; state intervention into the economic system.</p> <p>Agriculture and Farmers Support for agriculture and farmers; any policy aimed specifically at benefiting these. (Agriculture and Farmers)</p>
	Negative	

Percentages out of fifty-six categories grouped into seven major policy areas. Because of the different length of documents, the number of (quasi-) sentences in each category is standardized taking the total number of (quasi-) sentences in the respective documents as a base. In the data set each of these categories is a variable that represents the percentage.